

ORDINANCE NO. 15-061

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING CHAPTER 19 “LICENSES, PERMITS, AND BUSINESS REGULATIONS”, ARTICLE III “PEDDLERS AND TEMPORARY CONCESSIONS” OF “THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED”; CASE NUMBER 15PA-036; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 11, 2014, the City Council adopted Ordinance No. 14-027 which placed a temporary moratorium on the issuance of permits for temporary concessions in order for Staff to have adequate time to study and develop more comprehensive and standardized regulations; and,

WHEREAS, on August 14, 2014, based upon recommendations from Staff, the City Council adopted Ordinance No. 14-046, to amend the regulations for peddlers and temporary concessions; and,

WHEREAS, on February 12, 2015, the City Council adopted Resolution No. 15-008 establishing the Concessions Ad Hoc Committee (the “Committee”) to review current City ordinances and make recommendations for developing a comprehensive framework for governing outdoor concessions; and,

WHEREAS, as further provided in Exhibit A, (staff report), the Committee recommends amending Chapter 19, “Licenses, Permits, and Business Regulations”, Article III “Peddlers and Temporary Concessions” of “The Code of The City of Galveston 1982, as amended”; Planning Case Number 15PA-036; and,

WHEREAS, the City Council of the City of Galveston, Texas, deems it in the public interest to amend Chapter 19, “Licenses, Permits, and Business Regulations”, Article III “Peddlers and Temporary Concessions” of “The Code of The City of Galveston 1982, as amended pursuant to recommendations by the Concessions Ad Hoc Committee and as provided below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Chapter 19 “Licenses, Permits, and Business Regulations,” Article III “Peddlers and Temporary Concessions” of “The Code of the City of Galveston 1982, as amended” is hereby amended to read and provide as follows:

ARTICLE III. - PEDDLERS AND TEMPORARY 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 - means a person who goes from place to place selling small goods, articles or food for profit. and shall include "beggar," "solicitor," "canvasser" and "itinerant merchant."

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

Stand means 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.

Temporary concession, food means an enterprise or concession, which operates in the open and/or utilizes a non-permanent structure, and that makes available for sale perishable and/or non-perishable food items, from a single location.

Temporary concession, retail means an enterprise or concession, which operates in the open and/or utilizes a non-permanent structure, and that makes available for rental and/or sale perishable and/or non-perishable goods and/or commodities, other than food, from a single location. This does not include selling or renting of any motorized vehicles/Segways/bikes or any related motorized items that would require city police department approval.

Trailer - a portable vehicular structure built on a chassis, which may or may not be self-propelled being either a dependent or independent unit. For the purposes of this Code section relating to temporary concessions, shall not mean an enclosed building and/or structure which is permanently affixed to a trailer chassis.

Sec. 19-52. - Permit required.

- (a) No person shall peddle or conduct a temporary concession in the city without first having obtained a permit therefore as provided in this article.
- (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 temporary 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 of planning and community development at least ten (10) working days prior to the first date of the contemplated peddling or temporary concession is to take place in the city.
- (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; risk manager;
 - (4) Site plan (each location of a temporary concession shall be considered a separate business, therefore a separate permit shall be required for each location);
 - (5) Proposed signage;
 - (6) The A county health department permit, if 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 temporary concession is to be conducted;
 - (8) State sales tax identification number and the county 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 ~~three hundred fifty dollar (\$350.00) permit fee~~ a concession fee (permit fee) as established by the City Council.

a. The annual permit fee, as established by the City Council, shall be five hundred 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 Council, 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) Approval Location standards.

(1) Temporary Concession permits ~~is~~ are valid ~~on 61st (between Broadway Boulevard and Seawall Boulevard) and along Seawall Boulevard from 1st Street to 103rd Street as follows:~~ in Commercial, Resort/Recreation, Central Business, Heavy Industrial and Light Industrial zoning districts.

a. ~~Food concession: Permitted from the first Friday of March through Labor Day weekend with no hourly restriction.~~

b. ~~Retail concession: 9:00 a.m. Friday of Memorial Day weekend through 9:00 p.m. Monday of Labor Day weekend.~~

(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)(~~2~~) The following regulations shall apply:

a. ~~Reserved;~~ (1) The proposed site of the concession may not include or be located within any required parking space(s) for a permanent business(es);

b. ~~Reserved;~~ (2) A concession may not be located in the public right-of-way, or 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;

e. ~~The proposed site of the temporary business may not include or be located within any required parking spaces for a permanent business(es);~~

d. ~~No more than four (4) concession employees shall be on the premises at any given time;~~

e. ~~A temporary concession may not be located in the public right-of-way, or state highway department right-of-way and any serving window shall maintain a minimum setback of five (5) feet from the street right-of-way;~~

f. ~~Except for food vendors, the site must be completely vacated by 9:00 p.m. each day. All tables, tents, chairs, vehicles, etc. and trash shall be removed from the site;~~

~~g.~~ All provisions of this Code and ordinances must be met;

(3) ~~h.~~ For purposes of this Article, structures that are manufactured for a use other than mobile vending may not be used. ~~May not use structures that are manufactured for a use other than mobile vending.~~ 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;
No visible rust or disrepair;
3. No offensive images or language may be on the temporary concession or signs;
4. No emission of noxious gases, odors, and/or fumes;

~~(4)i.~~ Shall not operate from a vehicle such as a passenger (pickup) truck, flatbed trailer, mobile home, automobile, or passenger van;

~~(5)j.~~ Maximum of 12 person seating allowed. The business shall not provide temporary dining and seating facilities; There may be no more than twelve (12) seats per concession.

~~(6)k.~~ The temporary concession must be able to relocate within eight (8) hours of an emergency declaration by the city;

~~(7)l.~~ The temporary 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;

~~m.~~ The temporary concession shall not be placed in a location that interferes with a sidewalk, street, or driveway;

~~n.~~ The temporary concession shall not interfere with the quiet enjoyment of life and property, or tend to depreciate the value of the property of others;

~~(9)o.~~ Temporary Concessions must have a water source as approved by the county health district and an electrical service as approved by the city building department provide a free-standing pole or on-board generator for electrical service;

~~(10)p.~~ A maximum of four (4) signs shall be permitted at each temporary 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)q.~~ No sign concession shall advertise off-site businesses; Off-site business advertising is limited to the advertisement of brick and mortar establishments owned by the concessionaire;

~~(12)r.~~ The temporary concession shall not use noise, ~~or~~ lighting, or windblown devices as a means of attracting attention to the business;

~~(13)s. Reserved.~~ 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)t.~~ 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)u.~~ Each ~~unit~~ 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;

~~v.~~ Shall not be permitted to operate within three hundred (300) feet of other permitted concessions or vendors; and

~~(16)w.~~ 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;

~~x.~~ The business shall pay a temporary concession fee as established by the city council.

~~(e) (3)~~ The ~~D~~irector of the ~~Development Services~~ department ~~of planning and community development~~, 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)(d)~~ Declared Natural Disaster

~~Concessionaires during recovery from a declared natural disaster; regulations.~~ In the event of a disaster on Galveston Island, concessionaires may apply for a temporary concession to the ~~Development Services~~ department ~~of planning and community development~~ in accordance with the following:

~~(1) Applicant may apply immediately following a declared natural disaster and upon approval, may set up for six (6) to eighteen (18) months, depending on severity of the disaster, as determined by the city manager or designee.~~

~~(2) Applicant must submit all the information required in subsections (a) and (b) and must follow all the subject regulations of this section as to location and rules excluding allowable times of year for concessions and storage on site.~~

~~(3) Applicant will be permitted to set up overnight for operation the following day. All items shall be enclosed or secured at property at the applicant's cost and liability.~~

~~(1 4)~~ The following items ~~will~~ 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.
- ~~b. Any other items not listed that may be related will be determined by the director of planning and community development or designee.~~

(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)(e) 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. The applicant shall renew the permit on an annual basis at the Development Services department of planning and community development.

~~(f) 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 city manager's office within ten (10) days of the city's decision.~~

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) Reserved.~~

- ~~(de)~~ 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.
- ~~(ef)~~ 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. — Reserved.

Sec. 19-55.1. — Rules for beach temporary concessionaires.

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 **temporary** 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 in the Beach (B) zoning district, as defined by the Galveston zoning standards.~~
- ~~(c d)~~ Beach concessionaires shall only be permitted to install the following signs, per each lease site:
 - ~~(1) Sandwich board sign, as defined by section 29-51 of the Galveston zoning standards, Article V of the City of Galveston Land Development Regulations, may not to 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.~~
 - ~~(2) Owner identification flag, not to exceed fifteen (15) square feet, utilized solely for advertisement of the rental goods at the subject lease site. Only one (1) owner identification flag is permitted per lease site. An "open" flag may be utilized in place of the owner identification flag.~~

- (d e) Temporary concessions within the beach concessionaire area shall not be permitted to utilize temporary or portable buildings.
- (e f) All provisions of the city's Land Development Regulations zoning ordinances must be met.
- (g) As a condition for the issuance of a permit hereunder, a temporary concessionaire shall file with the city a permit bond, executed by the applicant as principal and by a good and sufficient corporate surety company acceptable to the city manager. Said permit bond shall provide that the principal will return the premises to a clean and sanitary condition, and that the applicant will reimburse the city for any expenditures made by it in returning the premises to such condition in the event applicant shall fail to do so within five (5) days from day of notice. Such bond shall inure to the benefit of the city and shall be in a form acceptable to the city attorney. In lieu of posting a performance bond, a cash deposit in an amount to be set by the city manager may be deposited with the city and shall be returned upon termination of the concessionaire's operations, provided the operator has complied with all requirements of this article. Interest on such cash deposit shall not be paid.
- (h) Only one (1) lessee shall be allowed to occupy each established lease site. No subleasing shall be permitted in the beach concessionaire area.
- (f i) Concessionaire permits and regulations shall not apply to designated state and county park facilities.
- (j) The beach temporary concessionaires regulations, as stated in the above subsections, shall not be applicable for the area between 10th and 61st Streets, deemed as beach concessionaires lease sites of the park board of trustees. Should the park board of trustees relinquish the subject areas as their jurisdiction, all subsections of section 19-55.1 shall apply, and the concessionaire, through the City of Galveston, must enter into a separate lease agreement.
- (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. 19-55.5. Temporary concessions in the Saengerfest Park area.

(a) Definitions:

- (1) Applicant shall mean a person who applies for a temporary concession permit in the Strand/Mechanic Historic District.
- (2) Commission shall mean the Galveston Landmark Commission.
- (3) Entertainment vendor shall mean a person who performs a show designed to entertain the public and not designed or performed on a one-to-one basis.
- (4) Food vendor shall mean a food service establishment.
- (5) Merchandise vendor shall mean a portrait artist or any person who engages in the business of selling balloons, artwork, souvenirs, retail items, fresh flowers or a combination thereof.

- ~~(6) Personal services vendor shall mean any person who provides personal services on a one-to-one basis, such as face painters.~~
- ~~(7) Saengerfest Park shall mean the area described as one hundred twenty (120) feet running north of Strand Street on 23rd Street and one hundred twenty (120) feet running west of 23rd Street on Strand Street. The properties are legally described as Lots 11, 12, 13, and 14, Block 683, in the City and County of Galveston, Texas.~~
- ~~(8) Valet parking vendor shall mean a person, or group of persons, who transports automobiles for temporary parking from a central location, to an alternate location.~~
- ~~(9) Vending display shall mean a cart mounted on wheels, designed to be readily movable, and propelled solely by human power and shall include "pushearts." Vending display may also consist of tables, chairs, and shade devices, such as pop-up canopies.~~
- ~~(10) Vendor shall mean an entertainment vendor, food vendor, merchandise vendor, personal services vendor, or valet parking vendor.~~

~~(b) Number of permits, expiration, fees.~~

- ~~(1) The city shall not issue more than a total of six (6) permits to entertainment vendors, food vendors, merchandise vendors, personal services vendors, valet parking vendors, or any combination thereof.~~
- ~~(2) The permit shall pertain to a specific location assigned to the vendor.~~
- ~~(3) Vendor permits shall not be valid during Mardi Gras festivities, Dickens on the Strand, Lone Star Biker Rally, or other city sanctioned special events conducted in the Strand/Mechanic Historic District.~~
- ~~(4) Each permit shall be valid for a period of one (1) year from the date of issuance, except in the case where an initial permit is issued during the calendar year in which case it shall expire on December 31st of that year.~~
- ~~(5) All permits shall expire on December 31st of each year and shall not be automatically renewed. A vendor wishing to continue the temporary concession shall apply for a new permit as set forth in the "permit application process" below.~~
- ~~(6) The applicant shall pay a temporary concession permit fee to the city of two hundred dollars (\$200.00) per year. The fee may be prorated for permits valid for less than twelve (12) months.~~

~~(c) Permit application process.~~

- ~~(1) Applicant shall submit an application for a vendor to the Development Services department of planning and community development, for review by the historic preservation officer. The historic preservation officer shall review the concession design, including color and signage, for conformance with the conditions of permits.~~
- ~~(2) The application shall be signed by the property owner to ensure all requirements of the Saengerfest Park property owner are being met, including insurance requirements which may be in excess of those in subsection (d)(16). Vendors shall remain in good standing with the Saengerfest Park property owner. Any termination of the agreement between the vendor and the Saengerfest Park property owner will result in immediate revocation of this permit upon notification by the Saengerfest Park property owner.~~

- (3) The Development Services department of planning and community development shall issue a temporary concession permit, if applicant has complied with all conditions of permits. If an application does not comply with all of the conditions of permits contained in subsection 19 (d), the applicant may make application to the landmark commission for review an alternative design.
- (d) Conditions of permits. The following conditions are applicable to all vendors. The director of the Development Services department of planning and community development may immediately revoke the permit of any vendor who violates one (1) or more of the following conditions:
- (1) If the vendor wishes to alter colors, signage or concession design, the vendor shall obtain the approval of the, historic preservation officer before making any alterations.
 - (2) Vendors shall be allowed to display one (1) sign that advertises the vending goods or services. Such sign shall be no larger than two (2) feet by three (3) feet.
 - (3) A vending cart shall not be larger than four (4) feet wide, eight (8) feet long, excluding roof overhangs and wheels, and eight (8) feet high.
 - (4) Vending carts shall be enclosed on four (4) sides and shall contain a storage area beneath the platform of the cart. Storage compartments in vending carts shall be covered with sliding doors.

Vending displays shall not consist of more than two (2) tables, two (2) chairs, and one (1) shade device. The shade device may not have any decorative borders such as fringes, tassels, or other such ornamentation. The shade device is not permitted to be of any fluorescent or other strikingly bright or vivid color, should be of one (1) solid color and similar to the Sherwin Williams Victorian paint scheme.
 - (5) Vendors shall not leave vending displays unattended. If a vending display is left unattended, the vending display may be removed and the vendor shall be liable for costs of removal and storage.
 - (6) Vendors shall not position or move vending displays in a manner that may damage or destroy any property. Vending displays shall not be permitted to impede pedestrian pathways. Vendors shall not position or move vending displays such that the vending display touches, leans against, or is affixed temporarily or permanently, to any building structure, wall, tree, shrubbery, planting bed, or sign.
 - (7) Vending displays shall not be operated by more than two (2) persons. Children under the age of sixteen (16) years shall not be the primary operator of any vending display or other vending equipment.
 - (8) All vending displays, with the exception of valet parking vendors, is encouraged to contain a trash receptacle, paper towels, household bleach, soap, water and detergents.
 - (9) Vendor shall be solely responsible for any damage or loss to vending displays, equipment, supplies, or goods.
 - (10) Vendors shall not change the character of the vending display, or change the type of service, or change the goods being sold or displayed without approval by the historic preservation officer.

- (11) Vendors shall not be allowed in locations other than the area designated on the vendor permit.
- (12) Vendors shall not be allowed to operate between the hours of 10:00 p.m. and 6:00 a.m.
- (13) Vendors shall remove all supplies, vending displays, and equipment from Saengerfest Park no later than 10:00 p.m. each day.
- (14) Each vendor shall remove all trash in the permitted area at the end of each day. Vendors shall not place trash in public receptacles or other public containers located within the Strand/Mechanic Historic District.
- (15) Each vendor shall be responsible for maintaining the area within and adjacent to the permitted location in a neat, clean, and hazard-free condition.
- (16) Each vendor shall obtain and maintain insurance in the form and amount required by the city risk manager.
- (17) Each vendor shall obtain and maintain applicable city and county permits, including but not limited to building permits, health permits, and city sales tax permits.
- (18) Each vendor shall prominently display the concessionaire permit at the permitted location.
- (19) Vendors shall not use city utilities.
- (20) All vendors with the exception of valet parking vendors, shall not sell, solicit or attempt to sell or solicit occupants of an vehicle, including horse drawn carriages.
- (e) Conflicts. In the event of any conflict between provisions of this section as those provisions apply to temporary concessionaires in the Saengerfest Park area, and other provisions of this chapter, the provisions of this section shall prevail.

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 and county park facilities.
- (c) An owner/operator of a temporary concession who is also the operator of a primary business conducted upon the same property and who is selling, through the temporary 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 temporary 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 or Beach Party Weekend 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 temporary concession within the city without first having obtained a permit ~~therefore as provided in this subsection~~.
- (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 park board of trustees~~ prior to the issuance of a Mardi Gras permit.
 - (4) Separate permits are required for each concession, and shall not be issued without ~~permission of the park board of trustees, subject to~~ 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 between~~ the city ~~and the park board of trustees~~. 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, ~~provided further,~~ during the duration of Mardi Gras. ~~When the park board, with confirmation by~~ the city, has designated an exclusive concessionaire, the permit fees will be established in accordance with ~~Article VII(A) section 20.5-14.1~~ 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 ~~each~~ 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 ~~park board of trustees and the director of housing 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. These receptacles may be obtained from the park board of trustees for a fee to be determined by the park board or may be provided by the concessionaire.
- (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 and especially section 20.5-14 (The Mardi Gras Ordinance), the Mardi Gras ordinance shall control and prevail.

~~(f) With the exception of subsection (b) above, during the period of Beach Party, no person shall peddle or conduct an outdoor temporary concession within the city without first having obtained a permit therefore as provided in this subsection.~~

~~(1) A Beach Party 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 Beach Party designated entertainment area.~~

~~(3) Concessions which sell food or drink must have a valid permit from the Galveston County health district.~~

~~(4) The permit fee for each concession outside the area designated "entertainment area" will be 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. 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. In addition to the permit fee, the city reserves the right to require a bond or cash deposit to assure the clean-up of debris.~~

~~(5) The Beach Party permit will be valid only for the duration of the festival period only and all concessions located in rights-of-way must be removed within twelve (12) hours of the conclusion of the event.~~

~~(6) Each concession will provide one (1) fifty five (55) gallon trash receptacle.~~

~~(7) Each concession will display the Beach Party permit in a conspicuous location inside the concession stand.~~

Sec. 19-57. - Penal clause. Penalty

~~Any person violating any provision of this article shall be unlawful and a misdemeanor offense punishable by a fine not exceeding five hundred dollars (\$500.00). Each day a violation of this chapter continues shall constitute a separate offense.~~

- ~~(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. — Permit fees.

~~The park board of trustees shall have authority, subject to approval by the city council upon recommendation of the city manager to revoke or suspend any permit issued hereunder for violation of any provision of this article. In addition, any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and upon conviction punished as provided in section 1-7.~~

Sec. 19-59 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 ~~Mardi Gras, Dickens, or Beach Party, 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 ~~city manager's office~~ 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:

DONNA M. 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