

22-0126
ORDINANCE AMENDMENT

PROPOSED ORDINANCE AMENDMENT

Title 6 - Business, License and Permit Provisions

BE IT ORDAINED, by the Forest Preserve District of Cook County Board of Commissioners, Title 6 - Business, License and Permit Provisions, Chapter 2 - Hawkers and Peddlers, of the Forest Preserve District Code of Ordinances is hereby amended as follows:

TITLE 6 - BUSINESS, LICENSE AND PERMIT PROVISIONS

CHAPTER 2 - HAWKERS AND PEDDLERS CONCESSIONS PERMITS AND CONTRACTS

6-2-1: - PERMIT REQUIRED CONCESSIONS PERMIT OR CONTRACT REQUIRED

Outside of authorized District personnel in the performance of their job duties, no Person shall upon or in connection with any District Property: collect fees, admission or cover charges, or display or offer for sale any articles, items or things, or conduct or solicit any business, trade, occupation or profession without obtaining a valid vendor permit Concessions Permit or Contract from the General Superintendent or their designee, or the Board (if applicable), and then only in accordance with the terms and conditions thereof, it being the intention of the District to control commercial enterprises or sales on District lands property. Nothing in this section shall preclude:

- a. The collection of fees or cover charges, or the sale of articles, items or other things by a Person for the purpose of fundraising for a charitable, humanitarian or benevolent cause under the terms of a special use permit issued by the District; or
- b. The collection of compensation by a Person in connection with the training, instructing, or leading of a fitness or athletic class involving five (5) or fewer individuals.

6-2-2: - PENALTY

~~Any person violating any provision of this Chapter shall be fined as provided for in Section 1-4-1 of this Code.~~

6-2-2: - DEFINITIONS

Applicant. Any person who seeks the issuance or renewal of a Concessions Permit or Contract under this Ordinance.

Board. The Board of Commissioners of the Forest Preserve District of Cook County.

Classes / Tours Contract. A contract with the District, no greater than five (5) years in length, for the provision of classes or tours conducted on District property for groups of more than five people, that will not generate more than \$25,000 in revenue to the District on an annual basis, and that otherwise meet the requirements of the District's Concessions Policy and this Ordinance.

Code. The Forest Preserve District of Cook County Code of Ordinances

Concessions Contract. Pilot Concessions Contracts, Small Concessions Contracts, Large Concessions Contracts, and/or Classes/Tours Contracts.

Concession(s) Opportunity. The display or offer for sale of any articles, food, or tangible things; the collection of fees, admissions or cover charges for a service; or conducting or soliciting any business, trade, occupation or profession on District Property subject to the terms of a Concessions Permit or Contract.

Concessions Permit. A non-transferable permit, for a Concession Opportunity, issued by the General Superintendent or their designee, that authorizes the named holder to undertake a Concession Opportunity at a specified location on District Property through non-permanent apparatuses including but not limited to push carts and food trucks subject to specific terms and conditions.

Concessions Policy. The District's Concessions Policy as promulgated by the General Superintendent.

Concessionaire. Any Person issued a Concessions Permit or Contract by the District.

County. The County of Cook, State of Illinois.

District. The Forest Preserve District of Cook County.

District Property. All property owned or leased by the District, including but not limited to material, equipment, buildings, structures, , and real property.

General Superintendent. The General Superintendent of the Forest Preserve District of Cook County.

Large Concessions Contracts. A contract for any Concession Opportunity that generates more than \$25,000 in revenue to the District on an annual basis and otherwise meets the requirements of the District's Concessions Policy and this Ordinance. A Large Concessions Contract must be selected via the District's Request for Qualifications ("RFQ") or Request for Proposals ("RFP") process in compliance with Section 1-8-2(N) of the Code.

Person. An individual, corporation, sole proprietorship, organization, business trust, estate, trust, partnership, association or any other legal entity.

Pilot Concessions Contract. A contract for a Concession Opportunity that is no longer than two (2) years in length, which will generate no more than \$25,000 in revenue to the District on an annual basis and otherwise meets the requirements of the District's Concessions Policy and this Ordinance. A Concessions Opportunity for a Pilot Concessions Contract is one brought to the attention of the District by an outside Person.

Small Concessions Contracts. A contract for a Concession Opportunity which is no longer than three years in duration, generates no more than \$25,000 in revenue to the District on an annual basis and otherwise meets the requirements of the District's Concessions Policy and this Ordinance. A Small Concessions Contract must be selected via the District's Request for Qualifications ("RFQ") or Request for Proposals ("RFP") process in compliance with Section 1-8-2(N) of the Code.

6-2-3: - CONCESSIONS

A. Concession Types. The District shall provide Concession Opportunities within the District to provide access to products and services that enhance patron use of the District while generating revenue to support ongoing District initiatives. This Section 6-2-3 (Concessions) describes the procurement process for various types of Concession Opportunities.

Table 1

NO.	TYPE	REVENUE TO DISTRICT	TERM	Competitive Bid	Posted	Board Approval
1.	<u>Concession Permits</u> <i>(Sec. 6-2-3(A-1))</i>	Per 6-2-4	1 year or less	NO	YES	NO
2.	<u>Pilot Concession Contracts</u> <i>(Sec. 6-2-3(A-2))</i>	\$25,000 or less <i>(annual basis)</i>	2 years or less	NO	NO	NO
3.	<u>Small Concession Contracts</u> <i>(Sec. 6-2-3(A-3))</i>	\$25,000 or less <i>(annual basis)</i>	3 years or less	YES	YES	NO
4.	<u>Large Concession Contracts</u> <i>(Sec. 6-2-3(A-4))</i>	Over \$25,000 <i>(annual basis)</i>	Varies	YES	YES	YES
5.	<u>Classes/Tours Contracts</u> <i>(Sec. 6-2-3(A-5))</i>	\$25,000 or less <i>(annual basis)</i>	5 years or less	NO	YES	NO

1. Concessions Permits. An Applicant for a Concessions Permit shall submit all necessary forms and materials to the Permits, Rentals and Concessions (PRC) Department by the deadline and in the manner so specified for the particular Concession Opportunity. In addition to the criteria set forth in the District's Concessions Policy and this Ordinance, Concessions Permits are subject to the requirements listed below.

- a. Concessions Permits are issued throughout the year, but expire no later than 11:59 p.m. on December 31st of the year issued.
- b. The annual revenue generated to the District through a Concessions Permit is limited to the applicable permit fee paid by the Applicant pursuant to Section 6-2-4 (“Permit Fees”) of this Ordinance.
- c. Concessions Permits shall be granted per site, and the maximum number of permits granted per site shall be based on the number of groves in the applicable preserve per the District's Concessions Policy.
- d. For equally qualified Applicants, Concessions Permits shall be granted on a first come, first served basis.
- e. The General Superintendent or their designee may restrict the number of permits awarded for any one Concessionaire based on availability limitations or equity concerns.
- f. Opportunities for Concessions Permits are limited to those opportunities published on the District's website.
- g. Requests to have new items or services considered for approval for Concessions Permits opportunities shall be submitted, in writing, to the Director of Permits, Rentals and Concessions, who shall determine, subject to the approval of the General Superintendent, whether the item or service (i) conforms to the criteria listed in the Concessions Policy; and (2) should be advertised on the District's website as a Concessions Permit opportunity or addressed as a Pilot Concessions Contract opportunity and subject to the requirements of Section 6-2-3(A-2) (Pilot Concession Contracts).

h. Approval of the District's Board is not required for the issuance of Concessions Permits.

2. **Pilot Concessions Contracts.** An Applicant for a Pilot Concessions Contract shall submit all necessary forms and materials to the Permits, Rentals and Concessions (PRC) Department by the deadline and in the manner indicated by the General Superintendent or their designee. Pilot Concessions Contract opportunities are proposed to the District by an outside Person and as such will not be posted to the District's website in advance of the opportunity's availability, however, any such Pilot Concessions Contracts will be reported to the Board on an annual basis per Section 6-2-3(D). In addition, if the District decides to proceed with a Pilot Concessions Contract for a specified opportunity, then at the end of the Pilot Concessions Contract such opportunity may be posted as either a Concessions Permit or Concessions Contract with the approval of the General Superintendent. In addition to the criteria listed in the District's Concessions Policy and this Ordinance, the conditions listed below apply to Pilot Concessions Contracts.

- a. The contract term shall not exceed a period of two (2) years in duration.
- b. The contract will generate no more than \$25,000 in revenue to the District on an annual basis.
- c. The District may elect to treat a for-profit special event that is thirty (30) days or less as a Pilot Concession Contract opportunity if the District anticipates that a revenue share would result in more revenue to the District than a special event permit.
- d. Approval of the District's Board is not required for the issuance of Pilot Concessions Contracts.

3. **Small Concession Contracts.** An Applicant for a Small Concessions Contract shall submit all necessary forms and materials to the District in the manner so specified in the Request for Qualifications (RFQ) or Request for Proposals (RFP) issued by the District for the particular Small Concessions Contract opportunity. Small Concessions Contracts are subject to compliance with Section 1-8-2(N) (Requests for Proposals and Requests for Qualifications) of the District's Code. In addition to the requirements of the particular RFQ or RFP, the District's Concessions Policy and this Ordinance, the conditions listed below apply to each Small Concessions Contract.

- a. The contract term is three (3) years or less in duration. The contract is renewable for up to three (3) years at the discretion of the General Superintendent.
- b. The contract will generate no more than \$25,000 in annual revenue to the District.
- c. Opportunities for Small Concessions Contracts are limited to those opportunities published on the District's website.
- d. Approval of the District's Board is not required for the issuance of Small Concessions Contracts.

4. **Large Concessions Contracts.** An Applicant for a Large Concessions Contract shall submit all necessary forms and materials to the District in the manner so specified in the Request for Qualifications (RFQ) or Request for Proposals (RFP) issued by the District for the particular Large

Concessions Contract opportunity. Large Concessions Contracts are subject to compliance with Section 1-8-2(N) (Requests for Proposals and Requests for Qualifications) of the District's Code. In addition to the requirements of the particular RFQ or RFP, the District's Concessions Policy and this Ordinance, the conditions listed below apply to each Large Concessions Contract.

- a. The Large Concessions Contract generates more than \$25,000 in annual revenue to the District.
- b. Opportunities for Large Concessions Contracts are limited to those opportunities published on the District's website.
- c. Approval of the District's Board is required for the issuance of Large Concessions Contracts.

5. Classes / Tours Contracts. An Applicant for a Classes/Tours Contract shall submit all necessary forms and materials to the Permits, Rentals and Concessions (PRC) Department by the deadline and in the manner so specified for the particular Concession Opportunity. In addition to the criteria listed in the District's Concessions Policy and this Ordinance, the conditions listed below apply to Classes/Tours Contracts.

- a. The contract term shall not exceed five (5) years in duration. The contract is renewable for up to three (3) years at the discretion of the General Superintendent.
- b. The Concession Opportunity will, or is likely to, generate as much or more in revenue to the District over the contract term than the amount that would be generated via a standard permit (See Section 7-1-1 (Fees)) for use of District Property. The contract will generate no more than \$25,000 in annual revenue to the District.
- c. The Applicant provider is qualified to otherwise offer classes or tours within the District.
- d. Opportunities for Classes/Tours Contracts are limited to those opportunities published on the District's website.
- e. Approval of the District's Board of Commissioners is not required for Classes/Tours Contracts.

B. Code of Ethical Conduct. The issuance, solicitation, negotiation, approval, denial, renewal, review, evaluation and termination of Concessions Permits and Contracts are subject to the provisions of the District's Code of Ethical Conduct ("Ethics Code"), located at Title I, Chapter 13 of the District Code. Any Concessions Permits or Contracts issued or renewed in violation of the District's Ethics Code are void. Any Applicant who knowingly violates the District's Ethics Code shall be disqualified from being issued future Concessions Permits or Contracts for three (3) years. The General Superintendent shall ensure that any District employees involved in the issuance of Concessions Permits or Contracts undergoes training as required by law or deemed necessary by the General Superintendent or Board. All Applicants for any Concessions Opportunity shall be required to submit a Familial Disclosure form as part of the application for such opportunity.

C. Authority of General Superintendent.

1. General. The General Superintendent may establish and publish additional rules and regulations, including, without limitation, requirements pertaining to the application process, insurance requirements, operating standards, environmental standards, food service, and other matters reasonably related to the District's Concessions Policy and this Ordinance. Such rules and regulations shall be incorporated into the District's Concessions Policy. The issuance of Concession Permits and Contracts, that are not subject to Board approval, is subject to the reasonable discretion of the General Superintendent as set forth in the District's Concessions Policy.
2. Pricing. The General Superintendent retains the right to review and approve all items and services offered by Concessionaires and the pricing of all such items and services, unless such items/services and pricing has already been approved by the Board.
3. Revocation. Concessions Permits and Contracts may be terminated in accordance with their terms. Concessionaires will be provided written notice of any revocation by the General Superintendent at the electronic mail address included on the Concessionaire's Permit or Contract application materials, unless otherwise provided for in the terms of the Permit or Contract. Any revocation notification shall state the basis for the revocation and state the effective date of the revocation. The Concessionaire shall forfeit all amounts paid to the District regardless of whether the Concessions Permit or Contract is involuntarily or voluntarily terminated. The General Superintendent may revoke any Concessions Permit or Contract under the following conditions:
 - a. Any required permit, license or document has been suspended, revoked or canceled;
 - b. The Concessionaire no longer has current and effective insurance that meets the requirements of the Permit, Contract, this Code, or the District's Concessions Policy;
 - c. The Concessionaire has violated or failed to meet any of the applicable provisions of the Permit or Contract, District's Concessions Policy, or District Code;
 - d. The application, issuance or renewal of the Concessions Permit or Contract was in violation of the District's Ethics Code;
 - e. In the reasonable discretion of the Superintendent, the Concessionaire's continued operation will, or is likely to, pose a threat to the health or safety of the public or employees of the District; or harm or damage the District's property, reputation, good will; or otherwise subject the District to adverse legal proceedings or liability; and/or
 - f. As otherwise provided for in the District's Concessions Policy.
4. Renewal. The General Superintendent shall have the right to extend Small Concessions and Classes/Tours Contracts for a renewal term not exceeding three (3)

years without approval of the District's Board of Commissioners, subject to the requisite criteria of the District's Concession Policy and this Ordinance.

- D. Annual Report.** On an annual basis, the General Superintendent shall place on the Agenda of the Board's March meeting an Annual Report listing all Concessions Permits and Concessions Contracts awarded by the District for part or all of the prior fiscal year and any Concession Opportunities currently available or anticipated to be made available by the District for the current year.
- E. Notice of Availability.** On an annual basis, the General Superintendent shall publish in a newspaper of general circulation in the County and shall post at the District's General Headquarters and on the District's website a notice of current and available Concession Opportunities, and all existing Concessions Permits or Contracts (including the description of the location and type of Concession Opportunity) scheduled to expire within six months of the notice. The notice shall include any deadline for receipt of applications, the form and manner in which an application can be received, and other procedures for filing the applications.
- F. Compliance with Law.** The Concessionaire shall comply with, and shall operate any concession in compliance with all applicable District ordinances, rules and regulations, including, without limitation, Section 1-8-2(W) (False Statements), 2-3-6 (Signs and Billboards), 3-3-2 (Sale of Alcoholic Beverages), and Section 3-3-8(A) and (B1-6) (Advertisements), as well as all applicable federal, state, and local laws, statutes, rules, regulations, and ordinances. A Concessionaire shall not discriminate against any member of the public, because of race, creed, color, religion, age, sex, marital status, disability, national origin, status of discharge from military, or other protected status.
- G. Compliance with Asset Marketing Program.** If the District is a then current member of Cook County's Asset Marketing Program and, if required by County Board resolution, ordinance or other legal means, then any Concession Opportunity shall be authorized in compliance with all applicable rules and objectives of the Cook County's Asset Marketing Program, per Cook County's Asset Marketing Ordinance (Section 2-321 of the Cook County Code of Ordinances).
- H. Request for Reconsideration and Hearing.** If the General Superintendent revokes any Concessions Permit or Contract under Section 6-2-3(C)), the Concessionaire may contest such action by requesting review of the basis of the revocation directly to the General Superintendent or their designee for reconsideration of the decision. Any such request must be made within five (5) business days of the effective date of the revocation. Untimely requests may be rejected without further consideration.

Any such request shall be in writing and shall state the basis upon which such revocation should be reversed, including any and all subsequent remediation of deficiencies identified in the revocation decision. The General Superintendent or their designee shall render a determination on the request for reconsideration within thirty (30) calendar days of the Concessionaire's written application contesting the revocation. This determination shall be delivered to the Concessionaire at the email address provided by the Concessionaire in the Concessions Permit or Contract application, unless otherwise provided for in the terms of the Permit or Contract. If the revocation is upheld, this determination shall be forwarded to the Cook County Department of Administrative Hearings.

Within thirty (30) days of receipt of the determination as described above, any Concessionaire who disagrees with the General Superintendent's determination may file an appeal for an

administrative hearing with the Cook County Department of Administrative Hearings in accordance with Cook County Code of Ordinances, Chapter 2, Administration, Article IX, Administrative Hearings. The filing of an appeal does not stop or prevent the physical closing or prohibition of Concessionaires' operations on District Property. The assigned administrative law judge shall render findings of fact and a recommendation regarding the revocation of the Concessions Permit or Contract. Within fourteen (14) days of receipt of the recommendation from the Department of Administrative Hearings, the General Superintendent shall inform the Concessionaire, in writing, whether the District accepts or rejects the recommendation of the Department of Administrative Hearings. This final decision shall constitute an "Administrative decision" pursuant to the Administrative Review Act (735 ILCS 5/3-101) and may be appealed to the Circuit Court of Cook County.

The exclusive jurisdiction and venue for any suit, appeal or legal challenge related to the final decision by the General Superintendent, or the Department of Administrative Hearing's written findings and recommendation, or this Ordinance shall be the Cook County Circuit Court and the laws of Illinois shall govern any such action.

No Concessionaire may operate a particular Concession Opportunity within the District while their Concession Permit or Contract for said Opportunity is revoked. A Concessionaire shall not operate during any review or appeal period subsequent to the revocation effective date. Any Concessionaire that operates on District Property while revoked may be prohibited from consideration for future Concession Opportunities within the District.

6-2-4: - PERMIT FEES

An Applicant shall submit the following fees prior to the District's granting of any Concessions Permit: (i) \$250.00 for a single day permit and (ii) \$500.00 for a permit valid for the remainder of the calendar year in which it was issued (i.e. a "multiple day" or "yearly" permit). Further, Concessions Permits may be issued throughout the year, but any permit so issued will expire no later than 11:59 p.m. on December 31st of the year issued. The following conditions apply to Concessions Permit fees:

- a. Additional Non-County Resident Premium of ten (10) percent applies to base Concessions Permit Fee.
- b. Application Fee of \$25 applies for each requested location.
- c. Fees must be paid in full up front.
- d. The District reserves the right to host special events at any location, including sites where Concessions Permits are issued. In that event, all Concessionaires can be excluded from the selected location for up to five (5) days with two weeks' notice (14 days). Concessions Permit fees are not refundable for any reason, including, but not limited to construction projects not under the control of the District, acts of God, inclement weather, pandemic, emergencies, or other unforeseeable circumstances.
- e. No discounts otherwise available under Title 7 of the District's Code are available for Concession Permits.

6-2-5: - PENALTY.

In addition to the potential revocation of a Concessions Permit or Contract, any Person violating any of the provisions of this Title 6 - Business, License and Permit Provisions, Chapter 2 - Permits and Concessions shall be charged penalties as described in Section 1-4-1 (General Penalty and Late Fee).

A separate and distinct offense shall be regarded as committed each four-hour period in which such Person continues or permits any such violation to continue on District Property, or fails to make a reasonable effort to comply. If the violation causes the District to reschedule maintenance activities, such Person will be billed for any additional District operating costs incurred by the rescheduling. Enforcement of penalties issued under this section is subject to the provisions of Section 1-4-1.

6-2-6: - REVIEW AND SUNSET

This Ordinance shall sunset on December 31, 2028. Prior to that sunset date, the District shall review the administration of its Concessions Program and Policy to determine if modifications are advised. The General Superintendent shall report to the Board of Commissioners in advance of the sunset date on the performance of the Program and how the Program has advanced the goals of the District.

Effective date: This ordinance shall be in effect April 1, 2022.

Approved: March 15, 2022