

ORDINANCE NO. 1981-22

AN ORDINANCE AMENDING SECTION 36, ARTICLE III OF THE CODE OF ORDINANCES OF THE CITY OF MILTON, REVISING LANGUAGE THAT ALLOWS FOR AND ESTABLISHES STANDARDS FOR MOBILE VENDORS WITHIN THE CITY OF MILTON; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE City Council of the City of Milton, Florida as follows:

Section 1: Code of Ordinances Amendment.

The City of Milton's Code of Ordinances is hereby amended as set forth in Attachment A and incorporated herein by reference.

Section 2: Severability.

If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance and the City of Milton's Unified Development Code shall remain in full force and effect.

Section 3: Repealer.

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4: Effective Date.

This Ordinance shall be effective upon passage by the City Council.

PASSED AND DULY ADOPTED, with a quorum present and voting by the City Council of the City of Milton, Florida, the 11th day of October, 2022.

CITY OF MILTON, FLORIDA


HEATHER LINDSAY, MAYOR

ATTEST: 
DAWN MOLINERO, CITY CLERK

First Reading: September 13, 2022
Second Reading: October 11, 2022

Legal in form and valid when signed by City Attorney.


ALEX ANDRADE, CITY ATTORNEY

ATTACHMENT A

ARTICLE III. MOBILE VENDORS

Sec. 36-120. Penalty.

The penalty for violating any provision of this article shall be a fine not exceeding the amount set forth in section 1-13 for each offense, together with the revocation or suspension of the vendor's lease, where applicable. The code enforcement officer has the authority to issue fines in accordance with F.S. ch. 162.

(Ord. No. 1085, § 12, 3-12-2002; Ord. No. 1316-09, § 11, 7-14-2009)

Sec. 36-121. Required.

No person shall conduct any business sale or sell any merchandise, or offer to conduct any business sale, offer or sell any merchandise, including food, beverages, goods and services, from any public road, other public thoroughfare, sidewalk, parking lot, or any public property whatsoever, except persons in permitted areas holding a valid mobile vendor license from the state and fully conforming to the terms of this article. No person shall operate or conduct a mobile vending business on privately owned commercial property within the city unless said operation conforms fully to the terms of this article.

(Ord. No. 1085, § 1, 3-12-2002; Ord. No. 1123-03, § 1, 6-10-2003; Ord. No. 1316-09, § 1, 7-14-2009; Ord. No. 1394-13, § 1, 9-10-2013)

Sec. 36-122. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section.

Mobile Vendor – a transient business selling or delivering food or goods in the city, whether from a food truck, trailer, tent or non-motorized cart or wagon

Sec. 36-123. Application.

- (a) The application for a vending lease shall contain all information relevant and necessary to determine whether a particular lease may be issued, including, but not limited to, the following:
 - (1) The applicant's full name, current address, telephone number, social security number and proof of identity, together with one full-face photograph of the applicant, no less than two inches square, nor more than three inches square;
 - (2) A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale;
 - (3) The specific locations in which the vendor intends to conduct business;
 - (4) If the applicant is employed by another, the name and address of the person; the federal tax number and the state sales tax number;
 - (5) A complete listing of any other licenses issued to the applicant by the city within the five years immediately preceding the date of application.

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- (b) The applicant shall provide a brief description of the nature and character of the food, beverages, goods or services to be sold, and the application shall be accompanied by a photograph of the vendor's stand or boat.
 - (c) The application must include a provision indemnifying and holding harmless the city from any and all claims arising out of the vendor's operation.
 - (d) The applicant must provide the city with a copy of a certificate of liability insurance with a minimum coverage of \$1,000,000.00. The policy must name the city as an additional insured.

(Ord. No. 1085, § 2, 3-12-2002; Ord. No. 1123-03, § 2, 6-10-2003; Ord. No. 1316-09, § 2, 7-14-2009)

Sec. 36-124. Fee.

Any vendor granted a vending lease under this article shall pay a nonrefundable annual fee as currently established or as hereafter adopted by resolution of the city council from time to time.

(Ord. No. 1085, § 4, 3-12-2002; Ord. No. 1257-07, § I, 9-27-2007; Ord. No. 1316-09, § 4, 7-14-2009)

Sec. 36-125. Permitted locations and conditions of use.

- (a) Ten publicly owned locations set forth below are hereby designated as permissible public mobile vendor sites:
 - (1) One location at the northwest corner of Willing and Caroline Streets for non-motorized vending carts or wagons only;
 - (2) Three locations at the northwest corner of Elmira and Caroline Streets;
 - (3) One location at the North Riverwalk for non-motorized vending carts or wagons only, not on the wooden boardwalk or gazebo;
 - (4) Two locations at the South Riverwalk, which shall be limited to non-motorized vending carts so as to be located in limited space;
 - (5) Two locations at Carpenter's Park not on the designated parking areas; and
 - (6) One location at Russell Harbor Landing not on the designated parking areas.
- (b) Mobile vendors will be allowed within all commercial zoning districts, including the D-CM, SSC-RC districts upon permission from the applicable property owner being provided to the City. Mobile vendors will also be allowed in the RC-1 zoning district on properties within 400 linear feet of the rights of way of Caroline Street or Willing Street.
- (c)
- (d) At each permitted location, no vendor shall be permitted:
 - (1) Within 15 feet of any street intersection or pedestrian crosswalk;
 - (2) Within ten feet of any driveway, loading zone or bus stop;
 - (3) Within a minimum of four feet of unobstructed pedestrian space;
 - (4) In any area within ten feet of a building entrance or exit or, in the case of a hotel or motel, within 15 feet of building entrances or exits;
 - (5) Against display windows of fixed location businesses;
 - (6) Within five feet of any fire hydrant or fire escape; and

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- (7) Within five feet of any parking space or access ramp designated for persons with disabilities.

(Ord. No. 1085, § 5, 3-12-2002; Ord. No. 1123-03, § 2, 6-10-2003; Ord. No. 1316-09, § 5, 7-14-2009; Ord. No. 1394-13, § I, 9-10-2013; Ord. No. 1484-18, § 1, 11-13-2018)

Sec. 36-126. Annual lease; random distribution; restriction relating to festivals/events.

- (a) Leases for operation on public property shall be issued on an annual basis coinciding with the city's lease requirements. All other locations will be permitted based on state licensing requirements and this article.
- (b) Any lease not renewed within 30 days of its expiration shall be void and of no further use or effect whatsoever.
- (c) Issuance of a mobile vendor's lease on city property does not allow usage of the permitted location during authorized festivals or events.

(Ord. No. 1085, § 6, 3-12-2002; Ord. No. 1316-09, § 6, 7-14-2009; Ord. No. 1389-13, § I, 7-9-2013; Ord. No. 1394-13, § I, 9-10-2013)

Sec. 36-127. Regulation of stand design and maintenance.

Licensed mobile vendors may only use vehicles or carts that have been inspected and approved by and are in conformance with design regulations promulgated by the health department and/or the state of Florida.

Sec. 36-128. Hours of operation.

Vendors shall be allowed to engage in the business of vending on city owned properties only between the hours of 8:00 a.m. and 10:00 p.m. No vending station, conveyance or other item related to the operation of vending business shall be located on any authorized location during non-vending hours. Vendors shall remove all conveyances within 30 minutes of ceasing business operations each day.

(Ord. No. 1085, § 9, 3-12-2002; Ord. No. 1123-03, § 4, 6-10-2003; Ord. No. 1316-09, § 8, 7-14-2009)

Sec. 36-129. Litter and trash to removal.

- (a) Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their businesses. All trash or debris accumulating within 20 feet of any vending stand shall be collected by the vendor and deposited in a trash container.
- (b) A person engaged in food vending shall affix to his or her vending station a receptacle for litter marked as being for litter, which shall be maintained and emptied regularly.
- (c) Lessees must take with them at the end of each day all trash, litter, garbage, refuse and waste, including, but not limited to, the greasy cooking water, generated by their vending operations.

(Ord. No. 1085, § 10, 3-12-2002; Ord. No. 1316-09, § 9, 7-14-2009)

Sec. 36-130. Prohibited conduct.

No person authorized to engage in the business of vending under this article shall do any of the following:

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- (1) Unduly obstruct pedestrian or motor vehicle traffic flow, except for up to 15 minutes to load and unload vending stations and/or vending merchandise.
 - (2) Obstruct traffic signals or regulatory signs.
 - (3) Stop, stand or park any conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.
 - (4) Leave any conveyance unattended at any time or store, park, or leave such conveyance in a designated area overnight.
 - (5) Use a handcart or pushcart whose dimensions exceed eight feet in width, 12 feet in length, and eight feet in height.
 - (6) Use any conveyance that, when fully loaded with merchandise, cannot be easily moved and maintained under control by the mobile vendor, his or her employee, or an attendant.
 - (7) Sell any goods, wares or merchandise from any location other than the designated location.
 - (8) Sound any device that produces a loud and raucous noise or operate any generator, loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention or as to constitute a nuisance in violation of the city's noise regulations. Generators exceeding the city's noise requirements must have proper sound attenuation to mitigate noise in excess of the requirements as set forth in Article 9 of the City's Unified Development Code.
 - (9) Conduct his or her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
 - (10) Utilize city electrical fixtures or electrical extension cords.
 - (11) Conduct business at the leased site any less than 20 hours in a one-month period.

(Ord. No. 1085, § 11, 3-12-2002; Ord. No. 1316-09, § 10, 7-14-2009)

Sec. 36-131. Lease notice and display.

- (a) The applicant shall be notified within 30 days after the applicant has filed a completed application of the decision to issue or deny the lease for mobile vending on city property..
- (b) Each lease application shall show the name and address of the lessee, the type of lease issued, the kind of goods to be sold, and the date of issuance. Each lease application shall also show the expiration date of the lease. Each lease shall be visibly displayed at the stand.

(c)

(Ord. No. 1085, § 13, 3-12-2002; Ord. No. 1316-09, § 12, 7-14-2009)

Sec. 36-132. Notice of name or address change required.

All mobile vending lessees shall assure that a current and correct name, residence address and mailing address are on file with the city. Whenever either the name or the address provided by a mobile vendor on his or her application for a vending lease changes, the lessee shall notify the city in writing within 30 days of such change and provide the same with the name change or address change.

(Ord. No. 1085, § 14, 3-12-2002; Ord. No. 1316-09, § 13, 7-14-2009)

Sec. 36-133. Suspension or revocation; grounds; notice; hearing.

- (a) In addition to the penalty contained in section 36-120, any lease issued under this article may be suspended or revoked for any of the following reasons:
 - (1) Fraud, misrepresentation or knowingly false statement contained in the application for the lease;
 - (2) Fraud, misrepresentation or knowingly false statement in the course of carrying on the business of vending;
 - (3) Conducting the business of vending in any manner contrary to the conditions of the lease;
 - (4) Conducting the business of vending in such a manner as to:
 - a. Create a public nuisance;
 - b. Cause a breach of the peace;
 - c. Constitute a danger to the public health, safety, welfare or morals; or
 - d. Interfere with the rights of abutting property owners; or
 - (5) Cancellation of health department authorization for a food or beverage vending unit.
- (b) The chief financial officer shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the lessee of his or her right to appeal. Such notice shall be mailed to the address shown on the lessee's application by certified mail, return receipt requested.
- (c) If the city revokes a vending lease, the fee already paid for the lease shall be forfeited. A person whose lease has been revoked under this section may not apply for a new lease for a period of one year from the date of revocation.
- (d) Notice of the hearing for revocation of a lease shall be given in writing, setting forth specifically the grounds of complaint and the time and place of a hearing. Such notice shall be mailed, postage prepaid, to the lessee at his or her last known address at least five days prior to the date set for the hearing.

(Ord. No. 1085, § 15, 3-12-2002; Ord. No. 1316-09, § 14, 7-14-2009)

Secs. 36-134—36-165. Reserved.