

Regulations for On-Street Mobile Vending

DRAFT 9/27/2011

Promulgated by the Metropolitan Traffic and Parking Commission pursuant to Metropolitan Code of Laws 13.08.040. Adopted on _____

Section 1 **Effective Date**

These regulations shall become effective on the date that they are filed in the Office of the Metropolitan Clerk.

Section 2 **Findings and Purpose**

It is found and declared that:

- a) The primary purpose of the public streets, sidewalks, and other public ways is for use by vehicular and pedestrian traffic;
- b) Vending and commercial displays on such public ways promotes the public interest by contributing to an active and attractive pedestrian environment;
- c) Reasonable regulation of any temporary encroachment on public ways is necessary to protect the public health, safety, and welfare; and
- d) These regulations are not intended to prohibit or hamper speech that is protected by the First Amendment, but merely to regulate specific activities, which are commercial in nature, and to ensure that the public ways remain safe and useful for their primary purpose and are attractive to tourists and public.

Section 3 **Definitions**

- a) "Business" or "Property Owner" shall mean any individual, including an employee or agent of a group of individuals, partnership, or corporation who is a tenant in or who owns property abutting public streets, roads or sidewalks.
- b) "Commission" shall mean the Traffic and Parking Commission
- c) "Mobile Vendor" or "Mobile Vending" shall mean a person, corporation, company, or business that sells or offers for sale goods, wares, merchandise, beverages or food stuffs of any kind or nature whatsoever from the roadway using a vehicle capable of movement.
- d) "Pedestrian" shall mean a person who is walking or otherwise traveling on the public way, sidewalk or other area created for pedestrian travel.
- e) "Public Property" shall mean all property, real and personal, belonging to the Metropolitan Government, excluding that which is used and /or intended for the use by vehicular or pedestrian traffic and defined herein as a public way.
- e) "Public Way" shall mean all areas legally open to public use and used or intended for vehicular or pedestrian traffic, including public streets, alleys, sidewalks, and roadways, but excluding any public property of the Metropolitan Government.

- g) “Roadway” – shall mean the portion of the highway improved for vehicular travel or use
- h) “To Obstruct” shall mean to so occupy the public ways so that the free use and enjoyment thereof by the public is in any way interrupted or interfered with, or such that the free ingress and egress to and from any building fronting on any public thoroughfare is impaired, except as provided by these regulations.

Section 4 **Distance.**

All measured distances and distance requirements addressed in these Regulations shall be distances measured in a straight line from the nearest edge of the Mobile Vending unit to the nearest edge of the object from which the Mobile Vending unit is to be distant.

Section 6 **Placement and Operation of Mobile Vending**

- a) **Safeguarding Traffic Flow and Pedestrian Passage**
Placement of devices related to mobile vending shall not obstruct or impede the pedestrian path of travel or traffic flow. Mobile Vending placement must adhere to current Federal, State, and Local regulations and policies. Mobile Vending from parking spaces, whether marked or unmarked, shall not reduce the clear pedestrian path of travel to less than four (4) feet. This includes any and all related components of the Mobile Vending.
- b) **Placement of Mobile Vendors.**
 - 1) Mobile Vending in marked on-street parking spaces shall not exceed the area allowed by the markings unless appropriate parking meter fees are paid for each space affected.
 - 2) Mobile Vending must follow rules and regulations regarding utilization of that parking space, including time limits.
 - 3) Mobile Vendors shall be parked with right side of unit facing curb or edge of pavement, and shall be placed a maximum of eighteen (18) inches from curb face or edge of pavement. On one-way streets parking with the left side of vehicle facing curb is permitted in the direction of traffic flow.
 - 4) Mobile Vending shall not impede access to the entrance or driveway of any adjacent building.
 - 5) Mobile Vending shall not obstruct sight distance for drivers;
 - 6) Mobile Vending shall not use stakes, rods, or support poles, or any method of support that is required to be drilled, driven, or otherwise fixed, in asphalt pavement, curbs, sidewalks or buildings.
 - 7) Mobile Vending is prohibited within fifteen (15) feet of any fire hydrant, fire escape, bus stop, any intersection curb radius return (the point of intersection of the street curb line and the curb radius), any doorway or driveway or other main entrance of any building, and of any emergency or fire exits.

- c) Attendant/Removal. A mobile vendor must be in attendance at all times while unit is in operation.
- d) Hours of Operation. No vending operations shall take place between the hours of 3:30 a.m. and 6:00 a.m. in the Central Business District.
- f) Removal of Trash and Recyclables All Mobile Vendors selling food or beverages must provide trash and recycling receptacles as a part of their Mobile Vending. Mobile Vending operations must supply, in a prominent location, trash and recycling containers sufficient in size to collect all waste and recyclables generated by customers and staff of the Mobile Vending operation. All trash and debris generated by customers and staff shall be collected by the Mobile Vendor and deposited in their trash or recycle container and removed from the site by the Mobile Vendor.
- g) Noise and Nuisance. Mobile Vendors shall obey all applicable laws prohibiting excess noise or other nuisance.
- h) Sales to Vehicle Occupants Prohibited. Mobile Vendors may not sell to persons in vehicles on streets or roads.

Section 7 Prohibited locations and Reservations

Unless otherwise designated by marked areas approved by the Commission:

- 1) a) Mobile Vending is prohibited at the following locations:
 - o Second Avenue from Church Street to the Shelby Street Pedestrian Bridge
 - o 4th Avenue from Union Street to Broadway Avenue
 - o 5th Avenue from Union Street to Korean Veterans Boulevard
 - o Broadway Avenue from 1st Avenue to 6th Avenue
 - o Shelby St. Pedestrian Bridge
 - o Commerce Street from 2nd Avenue North to 6th Avenue North.
 - o Union Street from 1st Avenue N to 6th Avenue North
 - o Church Street from 1st Avenue North to 6th Avenue North
 - o Demonbreun Street
 - o 21st Avenue from Wedgewood Avenue to Magnolia Boulevard
- b) Mobile Vending is prohibited in public alleys
- c) The use, marking, or designation of Mobile Vending spaces in no way grants any Mobile Vendor a vested right or property interest in any specific space, and the marked spaces may be removed at the discretion of the Commission when it is

determined to be in the interest of the public health, safety and welfare. Spaces are available on a first-come, first-served basis and may not be reserved.

- 2) Reservations for parking in a metered parking space are reviewed on a first-come first-served basis. Requests for space reservations must be submitted to Metro Public Works a minimum of twenty-four (24) hours in advance of the desired reservation period. Maximum length of stay is twenty four (24) hours. All parking restrictions apply to reserved spaces (note: this does not include meter restrictions such as two-hour limits). Upon approval, applicant shall pay all applicable fees. There is a maximum of two days of parking space reservations per calendar month.

Section 8 **Other Laws and Regulations**

Mobile Vending shall comply with all other applicable laws and regulations.

Section 9 **Stadium, Arena, Convention Center and Auditorium**

These Regulations shall be superseded by any conflicting regulation, ordinance, code, or statute governing the sale of food or merchandise in the public way in the area of a stadium, arena, convention center, or auditorium owned or operated in any part of the municipality.

Section 10 **Severance Clause**

The provisions of these Regulations are declared to be severable and if any section, sentence, clause, or phrase of these Regulations shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, clauses, and phrases of these regulations, but they shall remain in effect.

Section 11 **Effective Date**

These Regulations shall take effect on the date that they are filed with the Metropolitan Clerk.

ADOPTED BY THE METROPOLITAN TRAFFIC AND PARKING
COMMISSION ON THE ____ DAY OF _____ 20__.

Chairperson, Traffic & Parking Commission