

NOTICE OF MEETING
CITY COUNCIL OF THE CITY OF GALVESTON
THURSDAY - JUNE 23, 2022 - 8:30 A.M.
ROOM 204 - CITY HALL
823 ROSENBERG, GALVESTON, TEXAS
TELEPHONE: (409) 797-3510

Members of the public may attend the meeting in the following ways:

1. Attend the Zoom meeting by registering in advance at the following web address: https://us02web.zoom.us/webinar/register/WN_ndAvQiaqRVCYcOgj9FfaWg

WORKSHOP AGENDA

1. DECLARATION OF A QUORUM AND CALL MEETING TO ORDER
2. ROLL CALL
3. INTERVIEW APPLICANTS FOR THE PARK BOARD OF TRUSTEES
4. DISCUSSION ITEMS
 - 4.A. Clarification Of Consent And Regular City Council Agenda Items - This Is An Opportunity For City Council To Ask Questions Of Staff On Consent And Regular Agenda Items (20 Minutes)
 - 4.B. Discussion Of Galveston Municipal Code Chapter 19, Article III, Concessions And Peddlers, Section 19-51 – Definitions; Section 19-52 – Permit Required; Section 19-53 – Procedure For Approval And Applicable Standards; And Section 19-56 – Exceptions And Exemptions; Planning Case Number 22PA-005, Making Various Findings And Provisions Related To The Subject (Listowski/Brown - 15 Min))

Documents:

[CHAPTER 19 LICENSES PERMITS AND BUSINESS REGULATIONS.PDF](#)

- 4.C. FY 2023 Budget And Capital Improvement Plan (CIP) Discussion - (M. Loftin/D. Buckley - 40 Min)
- 4.D. Discussion Of Short Term Rental Software, Registration And Related Topics (Legal - 1 Hour)
 1. Park Board - Bryson Frazier
 2. Dr. Craig Stevens
- 4.E. Stewart Beach Ad Hoc Committee Update (Collins/Brown - 15 Min)
- 4.F. Ordinance/Policy Discussions (Brown/Collins - 20 Min)
 1. Wildflower Ordinance
 2. Trash Collection Policies
 3. Taxis Ordinance
 4. Tree Planting for New Infrastructure Projects

4.G. Discussion Of Signage Designating Galveston As The Birthplace Of Juneteenth (Brown-10 Min)

4.H. Report Of City Council's Park Board Representative (Collins/Brown - 10 Minutes)

5. ADJOURNMENT

I certify that the above Notice of Meeting was posted in a place convenient to the public in compliance with Chapter 551 of the Texas Government Code on June 17, 2022 at 1:20 P.M.

Janelle Williams

Janelle Williams, City Secretary

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409-797-3510).

ORDINANCE NO. 22- _____

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE CODE OF THE CITY OF GALVESTON, AS AMENDED, CHAPTER 19, "LICENSES, PERMITS AND BUSINESS REGULATIONS", ARTICLE III, "CONCESSIONS AND PEDDLERS", TO AMEND REGULATIONS, STANDARDS, AND DEFINITIONS REGARDING CONCESSIONS AND PEDDLERS; TO MAKE CLARIFICATIONS, RENAME, RENUMBER AND REARRANGE THE CHAPTER AS APPLICABLE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Galveston City Council seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, staff has reviewed Chapter 19 of the City Code regarding regulations on concessions and peddlers. Staff has made recommendations in order to amend the regulations, standards and procedures and make clarifications, and modifications, as applicable to the Chapter; and,

WHEREAS, the Planning Commission has reviewed the City Code regarding concessions and peddlers, including meetings held with concessionaires, and those interested in the subject thereof and several open meetings to discuss the issue; and,

WHEREAS, on June 7, 2022, the Planning Commission recommended approval of the revisions to Article III, Concessions and Peddlers". In addition, the Planning Commission recommends that due to the demands associated with the new requirements, that those current concession permit holders be provided a transition period to December 31. December 31 coincides with the annual termination of all concession permits. Any new concession permits must comply with the new regulations and requirements as proposed in Section 2, below; and,

WHEREAS, the City Council deems it in the public's interest to amend Chapter 19, "Licenses, Permits and Business Regulations", regarding Article III, "Concessions and Peddlers", of "The Code of The City of Galveston 1982, as amended," 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 hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Chapter 19, “Licenses, Permits and Business Regulations”, Article III., “Concessions and Peddlers”, is amended to read and provide as follows:

ARTICLE III. - CONCESSIONS AND PEDDLERS

Sec. 19-51. - Definitions.

Commissary means any establishment or service which can lawfully collect and/or dispose of grease, oil, grey water, and trash and provide potable water.

Concession means an enterprise which operates in the open and utilizes a self-sufficient, vehicle-mounted establishment, designed to be readily movable and that makes available for sale perishable or non-perishable goods or commodities. [PLANNING COMMISSION RECOMMEND]

Concession means an enterprise which operates in the open and utilizes a readily movable, self-sufficient, vehicle-mounted establishment, designed specifically for sales, and that makes available for sale perishable goods/food items or commodities. [STAFF RECOMMEND]

~~Concession means 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 means any parcel where two (2) or more concessions gather under a designated park manager.

Concession park manager means 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 means a mobile concession establishment that is self-sufficient and readily moveable.~~

Kiosk 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.

~~Mobile concession means a concession that moves from location to location providing their services~~

Motor vending means a concession that moves from location to location selling pre-packaged food items pursuant to state and local laws.

Peddler means a person who goes from place to place selling small goods or services for profit.

Special event for the purposes of this chapter, shall be defined by chapter 6, article II.

Temporary Concession means any concession which does not possess an annual City of Galveston concession permit.

Trailer means a portable vehicular structure built on a chassis, which may or may not be self-propelled being either a dependent or independent unit.

Sec. 19-52. - Permit required.

- (a) No person shall peddle or conduct a concession in the city without a permit.
- (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 City concession permits shall be specific to concession vehicles.~~
 - ~~(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 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 for Concessions.

- (a) The application shall be submitted to the development services department at least ten (10) working days prior to the first date the contemplated concession is to take place.
- (b) Application submittal requirements may include, but not be limited to, the following:
 - (1) Completed written application signed by the applicant and property owner or owner's agent;
 - (2) Valid legal identification of the concession operator;
 - (3) Proof of insurance and/or bond, in accordance with requirements established by the city;
 - (4) Site plan (each location of a concession shall be considered a separate business, therefore a separate permit shall be required for each location);
Site plan, drawn to scale, showing the property lines, existing structures, parking, and location of concession and any associated seating, signage, and trash receptacles;
 - (5) Proposed signage;
 - (6) A Galveston County A county Health District department permit, is required. Any concessions must adhere conform to county health district department requirements;
 - a. A manifest of visits to the approved commissary, signed by the commissary owner/operator, shall be kept on site and provided for review on request. Commissary use must conform to Galveston County Health District standards.

- (7) Copy of the current signed lease from the property owner(s) to utilize the property from which the concession is to be conducted;
- a. Up to three (3) sites may be included on one (1) permit providing all other provisions are met for each site;
- (8) State sales tax identification number and with the city of Galveston shall be indicated as the origin of sales; and,
- (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
- (9)(10) Payment of 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 or two hundred and fifty dollars (\$250) if the concession shall be located in at least one (1) permitted concession park;
- b. The permit is valid from the date of completion of the application and payment of the concession fee has been made;
- (10) The concession park manager shall obtain a Certificate of Zoning Compliance before operating as a concession park. 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) Location standards.
- (1) Concession permits are valid in commercial, resort/recreation, central business, heavy industrial and light industrial zoning districts and commercial properties in Traditional Neighborhood zoning.
- (2) Concessions will not be permitted within one hundred (100) 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) The following regulations shall apply:
- (1) The proposed site of the concession may not include or be located within any required parking space(s) for a permanent business(es);
- (2) A concession may not be located in the public right-of-way, 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;
- (3) For purposes of this article, structures, Structures that are manufactured for a use other than mobile vending may not be used. 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:

- a. No cracked windows;
 - b. No visible rust or disrepair;
 - c. No offensive images or language may be on the concession or signs;
 - d. No emission of noxious gases, odors, and/or fumes;
- (4) Shall not operate from a vehicle such as a passenger (pickup) truck, flatbed trailer, mobile home, automobile, or passenger van;
 - (5) Maximum of twelve (12) person seating allowed. Seating associated with concessions is prohibited except as allowed in concession parks described herein.
 - (6) The concession must be kept in good repair and remain functional and mobile while on site able to relocate within eight (8) hours of an emergency declaration by the city;
 - (7) The 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;
 - (9) Concessions must utilize have a potable water source as approved by the county health district; and provide a free standing pole, or on board generator for electrical service;
 - (10) Concessions may utilize any source of electricity permitted and installed in accordance with adopted building and life-safety codes;
 - (11) A-frame signage is limited to one (1) per concession. Signage is limited to the face of the concession itself, except as provided in City Code. All other sign standards apply to concession vehicles; A maximum of four (4) signs shall be permitted at each 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;
 - (12) Off-site business advertising is limited to the advertisement of brick and mortar establishments owned by the concessionaire;
 - (13) All concession sales and display must occur within the concession vehicle. No outdoor display allowed. The concession shall not use noise, lighting, or windblown devices as a means of attracting attention to the business;
 - (14) Shall be permitted without a distance requirement from a residential structure in a commercial zoning district 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;

(15) The concession shall 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 must be visible from outside the concession at all times.~~shall remain on display so long as any goods or merchandise are being sold or exhibited;~~

(16) Each concession must have a covered litter receptacle available, clearly marked and maintained for patron use. This litter receptacle must be at least a forty-four (44) ~~of a twenty (20)~~ gallon capacity and composed of a leak-proof, nonabsorbent material;

(17) Concessions shall not operate within five hundred (500) feet of any preschool-12th grade public or private school building between the hours of 7am and 6pm on regular school days.

~~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;~~

(18) The City of Galveston reserves the right to inspect the concession site at any time for conformance with this Article.

(e) The director of the development services department, or designee, reserves the right to deny and/or revoke a permit based on any, but not limited to the following:

(1) Inappropriate signage;

(2) Incompatible stand/cart/vehicle design or unacceptable stand/cart/vehicle condition;

(3) Dangerous stand/cart /vehicle placement or other threat to public health, safety and/or welfare; and

(4) Non-compliance with permit conditions or city code provisions.

(f) Declared natural disaster. In the event of a disaster on Galveston Island, concessionaires may apply for a concession to the development services department in accordance with the following:

(1) The following items may, as approved by the city manager, be allowed during recovery from a declared natural disaster:

a. Goods and services or and related items: Laundry, food, household goods, charitable activities, generators, mattresses, landscaping, retail goods, internet and wireless services.

(g) Temporary Concession Permits. Temporary concession permits may be issued for any event held on non-residential, private property which is open to the public, subject to the following and as approved by the city:

- (1) Completed written application signed by the applicant and property owner or owner's agent;
- (2) A valid legal identification of the concession owner;
- (3) Proof of insurance, in accordance with requirements established by the city;
- (4) A valid Galveston County Health District department permit is required. Concessions must conform to county health district requirements;
- (5) A valid commissary agreement;
- (6) State sales tax identification number with the City of Galveston indicated as the origin of sales; and,
- (7) Concession fee of \$40 per day, up to 14 consecutive days per temporary concession application, plus a \$150 fee if the application is submitted less than ten (10) business days before the event;
- (8) Concessions which hold a valid annual concession permit are exempt from temporary concession permit fees, subject to notifying the City of Galveston of intent to participate in a temporary event at least ten (10) business days before the event.

~~(h)~~(g) Concession parks. All concession regulations apply to the concessions within the park. 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 but not limited to the following:

- (1) The Concession parks shall have a designated concession park manager;
 - a. The concession park manager shall obtain a ~~concession park permit to operate a concession park~~ Certificate of Zoning Compliance to operate a concession park. The concession park manager shall ensure that concessions obtain a valid City of Galveston concession permit.
 - b. No more than one concession shall be permitted per every 1,000 square feet of area;
 - c. Concessions located in parks may provide seating for up to six (6) people per concession;
 - d. Concession parks of at least 11,000 square feet in area must provide two (2) off-street parking spaces per concession, regardless of zoning. All required surfaces for vehicle parking shall conform to Article 8 of the Land Development Regulations.
 - e. Any lighting installed in a concession park shall conform to the Land Development Regulations, as amended
 - b. ~~The permit shall provide contact information as required by the development services department.~~
 - e. ~~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 (1) plant per concession is required in the concession park area;~~

~~b. Any lighting installed in a concession park shall adhere to appendix A, article 7, 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;~~

~~(j)(h) Mobile concessions. Motor Vending~~

~~(1) May not provide seating;~~

~~(2) Mobile concessions Motor vending serving only frozen novelties may operate island-wide, except along arterial roadways.~~

~~(k)(i) 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.~~

Sec. 19-56. – Exceptions, and exemptions, and fees.

~~(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.~~

~~(a)(b) Concessionaire permits and regulations shall not apply to designated state park facilities.~~

~~(b)(e) The area commonly known as Saengerfest Park may allow kiosks to sell perishable or non-perishable goods, services, and commodities subject to the property manager's discretion (Ord. 07-044).~~

(c) An owner/operator of a concession who is also the operator of a primary business conducted upon the same property and who is selling, through the 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 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 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 shall not be required to obtain a permit under this article.
- (e) With the exception of subsection (b), during the period of Mardi Gras activities or festivals, no person shall peddle or conduct an outdoor concession within the city without first having obtained a permit.
 - (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 county health district and permission to sell food or drink from the city prior to the issuance of a Mardi Gras permit.
 - (4) Separate permits are required for each concession and shall not be issued without 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 the city. 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, during the duration of Mardi Gras. When the city, has designated an exclusive concessionaire, the permit fees will be established in accordance with chapter 20.5, article VII(A) and the exclusive concessionaire's contract. In addition to the permit fee, the city reserves the right to require a bond or 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 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.
- (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 (the Mardi Gras ordinance), the Mardi Gras ordinance shall control and prevail.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the 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. All Ordinances of general and permanent nature, and amendments to such Ordinances, hereinafter adopted by the City Council, shall be drafted, so far as possible, as specific amendments of, or additions to, this Code. Amendments to this Code are intended for publication to the Galveston City Code. The Codifier is authorized pursuant to the Galveston City Code to make non-substantive changes to the Ordinance prior to publishing.

SECTION 6. 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 7. This Ordinance shall be and become effective on, from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

SECTION 8. There will be a transition period from the effective date of this Ordinance through December 31 for current concession permit holders to allow those current permit holders to come into conformance with the requirements of the Ordinance. Any new concession permits must comply with the new regulations and requirements as adopted herein. The regulations of this Ordinance will be fully enforced beginning January 1, 2023.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
SR. 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 June 23, 2022, 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 _____, 2022.

Secretary for the City Council
Of the City of Galveston



City of Galveston

DEVELOPMENT SERVICES DEPARTMENT

3015 Market | Galveston, TX 77550
409-797-3660 | planning@galvestonTX.gov

Date: June 23, 2022

To: Dr. Craig Brown, Mayor
City Council Members

From: Daniel Lunsford, Senior Planner
Development Services Department

RE: **22PA-005** Request to amend Galveston Municipal Code Chapter 19, Article III,
Section 19-51 – Definitions;
Section 19-52 – Permit required;
Section 19-53 – Procedure for approval and applicable standards; and
Section 19-56 – Exceptions and Exemptions
Applicant: City of Galveston

I. **Background**

This Planning Commission case is scheduled as part of the City Council directive to Planning Commission to examine the City of Galveston's concessions (food truck) ordinances and provide recommendations to City Council.

Previously, Planning Commission held twelve workshops in regards to this subject. During the April 19, 2021 workshop Planning Commission made final recommendations and tasked Planning staff with compiling the results of all workshops into a proposal for City Council consideration. City Council will consider the changes at the June 23, 2022 regular meeting.

In Attachment A, staff includes the draft ordinances formatted to assist Planning Commission and City Council in reviewing the proposed omissions and changes (red strikethrough), and proposed additions and clarifications (blue text). Planning staff also includes a numbered key of footnotes as a narrative of changes, shown as highlighted, bracketed numbers.

II. **Current Situation**

- Current concession regulations were adopted in July 2015, based on the work of a previous ad hoc committee (2014-2015).
- In early 2021, City Council requested that city staff and Planning Commission re-examine the 2015 ordinance and provide recommendations. This process included twelve workshops, three of which involved input from concession owners directly.





City of Galveston

DEVELOPMENT SERVICES DEPARTMENT

3015 Market | Galveston, TX 77550
409-797-3660 | planning@galvestonTX.gov

- Staff is recommending amendments to the Municipal Code to address a number of recommended changes and revisions to the 2015 (current) concessions ordinances, summarized as:
 - Revised definitions (Section 19-51);
 - Revised operational procedures and standards (Sections 19-52, 19-53, and 19-56);
 - Provisions for temporary concessions permits; and
 - Proposed fee changes for both concessions (food trucks) and concessions parks involving more than one concession.
- Please note, Staff is also presenting some alternatives as described in the footnotes.

III. Alternatives in Order of Priority

- A. Approval of proposed changes to the Municipal Code.
- B. Approval of additional revisions and proposed changes to the Municipal Code.
- C. Do not approve any changes.

IV. Recommendation

Approval of proposed changes to the Municipal Code.

V. Fiscal Impact Report

Requested by:

Catherine Gorman, AICP
Assistant Director/Historic Preservation Officer
Development Services Department

Funding Source:

n/a

Costs of Implementation:

minimal staff time

VI. Attachments

- A. Proposed code changes and footnotes (Attachment A)



ATTACHMENT A:
Proposed Revisions to Galveston Municipal Code
Chapter 19, Article III: Concessions and Peddlers
Including Staff Notes and References

Key to Ordinance Revisions:

~~Strikethrough~~ – omission/removal from current ordinance

Underlined – additions/changes to existing language

[Italicized # in Attachment A] – staff's notes and explanations for City Council reference (will not be included in final ordinance).

ORDINANCE NO. 22- _____

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE CODE OF THE CITY OF GALVESTON, AS AMENDED, CHAPTER 19, "LICENSES, PERMITS AND BUSINESS REGULATIONS", ARTICLE III, "CONCESSIONS AND PEDDLERS", TO AMEND REGULATIONS, STANDARDS, AND DEFINITIONS REGARDING CONCESSIONS AND PEDDLERS; TO MAKE CLARIFICATIONS, RENAME, RENUMBER AND REARRANGE THE CHAPTER AS APPLICABLE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Galveston City Council seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, staff has reviewed Chapter 19 of the City Code regarding regulations on concessions and peddlers. Staff has made recommendations in order to amend the regulations, standards and procedures and make clarifications, and modifications, as applicable to the Chapter; and,

WHEREAS, the Planning Commission has reviewed the City Code regarding concessions and peddlers, including meetings held with concessionaires, and those interested in the subject thereof and several open meetings to discuss the issue; and,

WHEREAS, on June 7, 2022, the Planning Commission recommended approval of the revisions to Article III, Concessions and Peddlers". In addition, the Planning Commission recommends that due to the demands associated with the new requirements, that those current concession permit holders be provided a transition period to December 31. December 31 coincides with the annual termination of all concession permits. Any new concession permits must comply with the new regulations and requirements as proposed in Section 2, below; and,

WHEREAS, the City Council deems it in the public's interest to amend Chapter 19, "Licenses, Permits and Business Regulations", regarding Article III, "Concessions and Peddlers", of "The Code of The City of Galveston 1982, as amended," 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 hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Chapter 19, “Licenses, Permits and Business Regulations”, Article III., “Concessions and Peddlers”, is amended to read and provide as follows:

ARTICLE III. - CONCESSIONS AND PEDDLERS

Sec. 19-51. - Definitions.

Commissary means any establishment or service which can lawfully collect and/or dispose of grease, oil, grey water, and trash and provide potable water.

[1] Current ordinance does not include a concise definition of a commissary which conforms to state law and/or Galveston County Health District standards.

Concession means an enterprise which operates in the open and utilizes a self-sufficient, vehicle-mounted establishment, designed to be readily movable and that makes available for sale perishable or non-perishable goods or commodities. [PLANNING COMMISSION RECOMMEND]

Concession means an enterprise which operates in the open and utilizes a readily movable, self-sufficient, vehicle-mounted establishment, designed specifically for sales, and that makes available for sale perishable goods/food items or commodities. [STAFF RECOMMEND] *[2] Note that Planning staff recommends limiting annual concessions to food consumables/perishable items only, as most complaints associated with concessions involve merchandise/goods and opposed to food consumables/perishables.*

~~Concession means 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 means any parcel where two (2) or more concessions gather under a designated park manager.

Concession park manager means 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 means a mobile concession establishment that is self-sufficient and readily moveable.~~

Kiosk 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.

~~Mobile concession means a concession that moves from location to location providing their services~~

Motor vending means a concession that moves from location to location selling pre-packaged food items pursuant to state and local laws. *[3] This refers to ice cream trucks,*

which sell low-risk, prepackaged food items as opposed to high-risk prepared items. Staff recommends only minor changes to this section as described in [15], below.

Peddler means a person who goes from place to place selling small goods or services for profit.

Special event for the purposes of this chapter, shall be defined by chapter 6, article II.

Temporary Concession means any concession which does not possess an annual City of Galveston concession permit. [4] *Currently the city has no provision for temporary concessions; only annual permits can be issued. Due to consistently high demand for some sort of temporary food truck permit, staff recommends this addition.*

Trailer means a portable vehicular structure built on a chassis, which may or may not be self-propelled being either a dependent or independent unit.

Sec. 19-52. - Permit required.

- (a) No person shall peddle or conduct a concession in the city without a permit.
- (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 City concession permits shall be specific to concession vehicles.~~
 - ~~(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 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 for Concessions.

- (a) The application shall be submitted to the development services department at least ten (10) working days prior to the first date the contemplated concession is to take place.
- (b) Application submittal requirements may include, but not be limited to, the following:
 - (1) Completed written application signed by the applicant and property owner or owner's agent;
 - (2) Valid legal identification of the concession operator;
 - (3) Proof of insurance and/or bond, in accordance with requirements established by the city;
 - (4) Site plan (each location of a concession shall be considered a separate business, therefore a separate permit shall be required for each location);

Site plan, drawn to scale, showing the property lines, existing structures, parking, and location of concession and any associated seating, signage, and trash receptacles;

- (5) Proposed signage;
- (6) A Galveston County A-county Health District department permit, is required. Any concessions must adhere conform to county health district department requirements;
 - a. A manifest of visits to the approved commissary, signed by the commissary owner/operator, shall be kept on site and provided for review on request. Commissary use must conform to Galveston County Health District standards.
- (7) Copy of the current signed lease from the property owner(s) to utilize the property from which the concession is to be conducted;
 - a. Up to three (3) sites may be included on one (1) permit providing all other provisions are met for each site; *[5] Currently food trucks are not permitted to move between locations. This change is in response to concessionaires' requests, and to align with the typical standard of local jurisdictions. City Marshal has indicated this should not result in any additional enforcement duties or workload.*
- (8) State sales tax identification number and with the city of Galveston shall be indicated as the origin of sales; and,
- (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
[6] This is not an actionable item, and state laws prohibit certain activities if an individual has a criminal record. Legal department recommends striking this requirement.
- ~~(9)~~(10) Payment of 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 or two hundred and fifty dollars (\$250) if the concession shall be located in at least one (1) permitted concession park; *[7] This change is intended to encourage concessionaires to congregate into shared locations by providing a financial incentive for doing so. This was one of the driving concerns that City Council expressed when these revisions began.*
 - b. The permit is valid from the date of completion of the application and payment of the concession fee has been made;
- (10) The concession park manager shall obtain a Certificate of Zoning Compliance before operating as a concession park. pay a concession park fee as established by city council; *[8] Similar to [7], above, this intends to encourage clustering*

into parks by greatly reducing the concession park fees. Currently this fee is \$1,000 per year, which landlords are certainly passing on to the concessionaires through their leases. This discourages clustering by making it less expensive to locate outside of a concession park. However, a Certificate of Zoning Compliance only costs \$100.

~~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) Location standards.

(1) Concession permits are valid in commercial, resort/recreation, central business, heavy industrial and light industrial zoning districts and commercial properties in Traditional Neighborhood zoning. [9] *This provision was added to provide neighborhoods like Evia, Beachtown, and Beachside Village – which tend to have a commercial or mixed-use component to begin with – some ability to host concessions if they desire.*

(2) Concessions will not be permitted within one hundred (100) ~~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) The following regulations shall apply:

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

(2) A concession may not be located in the public right-of-way, 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;

(3) ~~For purposes of this article, structures,~~ Structures that are manufactured for a use other than mobile vending may not be used. 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:~~

~~a. No cracked windows;~~

~~b. No visible rust or disrepair;~~

~~c. No offensive images or language may be on the concession or signs;~~

~~d. No emission of noxious gases, odors, and/or fumes;~~

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

(5) ~~Maximum of twelve (12) person seating allowed.~~ Seating associated with concessions is prohibited except as allowed in concession parks described herein. [10] *Planning Commission recommends prohibiting seating for*

concessions outside of concession parks; however Planning staff recommends allowing the same seating per concession regardless to make enforcement easier, and due to concessionaire input.

- (6) The concession must be kept in good repair and remain functional and mobile while on site able to relocate within eight (8) hours of an emergency declaration by the city;
- (7) The 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;
- (9) Concessions must utilize have a potable water source as approved by the county health district; and provide a free standing pole, or on board generator for electrical service;
- (10) Concessions may utilize any source of electricity permitted and installed in accordance with adopted building and life-safety codes; [11] Planning staff consulted with Building Department and Fire Marshal to determine what manners of electrical connections would be safe. According to them, any properly installed and permitted electrical hookup is acceptable; the current restrictions on generator or T-pole only are impractical for several reasons.
- (11) A-frame signage is limited to one (1) per concession. Signage is limited to the face of the concession itself, except as provided in City Code. All other sign standards apply to concession vehicles; A maximum of four (4) signs shall be permitted at each 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; [12] This change aligns concessions with Article 5: Signage of the Land Development Regulations.
- (12) Off-site business advertising is limited to the advertisement of brick and mortar establishments owned by the concessionaire;
- (13) All concession sales and display must occur within the concession vehicle. No outdoor display allowed. The concession shall not use noise, lighting, or windblown devices as a means of attracting attention to the business;
- (14) Shall be permitted without a distance requirement from a residential structure in a commercial zoning district 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;
- (15) The concession shall 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 must be visible from outside the concession at all times, shall remain on display so long as any goods or merchandise are being sold or exhibited;

(16) Each concession must have a covered litter receptacle available, clearly marked and maintained for patron use. This litter receptacle must be at least a forty-four (44) ~~of a twenty (20)~~ gallon capacity and composed of a leak-proof, nonabsorbent material;

(17) Concessions shall not operate within five hundred (500) feet of any preschool-12th grade public or private school building between the hours of 7am and 6pm on regular school days. [13] *Nothing has changed here except the wording. Galveston ISD administration has indicated that they wish this provision to remain due to concerns with traffic congestion and safety around schools.*

~~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;~~

(18) The City of Galveston reserves the right to inspect the concession site at any time for conformance with this Article.

(e) The director of the development services department, or designee, reserves the right to deny and/or revoke a permit based on any, but not limited to the following:

- (1) Inappropriate signage;
- (2) Incompatible stand/cart/vehicle design or unacceptable stand/cart/vehicle condition;
- (3) Dangerous stand/cart /vehicle placement or other threat to public health, safety and/or welfare; and
- (4) Non-compliance with permit conditions or city code provisions.

(f) Declared natural disaster. In the event of a disaster on Galveston Island, concessionaires may apply for a concession to the development services department in accordance with the following:

- (1) The following items may, as approved by the city manager, be allowed during recovery from a declared natural disaster:
 - a. Goods and services or and related items: Laundry, food, household goods, charitable activities, generators, mattresses, landscaping, retail goods, internet and wireless services.

(g) Temporary Concession Permits. Temporary concession permits may be issued for any event held on non-residential, private property which is open to the public, subject to the following and as approved by the city:

- (1) Completed written application signed by the applicant and property owner or owner's agent;
- (2) A valid legal identification of the concession owner;
- (3) Proof of insurance, in accordance with requirements established by the city;

- (4) A valid Galveston County Health District department permit is required. Concessions must conform to county health district requirements;
- (5) A valid commissary agreement;
- (6) State sales tax identification number with the City of Galveston indicated as the origin of sales; and,
- (7) Concession fee of \$40 per day, up to 14 consecutive days per temporary concession application, plus a \$150 fee if the application is submitted less than ten (10) business days before the event;
- (8) Concessions which hold a valid annual concession permit are exempt from temporary concession permit fees, subject to notifying the City of Galveston of intent to participate in a temporary event at least ten (10) business days before the event.

[14] Staff recommends waiving the temporary concession fees for annual permit holders, as they are operating locally on a regular basis, so long as city staff is notified of their intentions at least ten (10) days before the event.

(h)(g) Concession parks. All concession regulations apply to the concessions within the park. 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 but not limited to the following:

- (1) The Concession parks shall have a designated concession park manager;
 - a. The concession park manager shall obtain a concession park permit to operate a concession park Certificate of Zoning Compliance to operate a concession park. The concession park manager shall ensure that concessions obtain a valid City of Galveston concession permit.
 - b. No more than one concession shall be permitted per every 1,000 square feet of area;
 - c. Concessions located in parks may provide seating for up to six (6) people per concession;
 - d. Concession parks of at least 11,000 square feet in area must provide two (2) off-street parking spaces per concession, regardless of zoning. All required surfaces for vehicle parking shall conform to Article 8 of the Land Development Regulations.
 - e. Any lighting installed in a concession park shall conform to the Land Development Regulations, as amended
 - 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 (1) plant per concession is required in the concession park area;~~

~~b. Any lighting installed in a concession park shall adhere to appendix A, article 7, 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;~~

~~(j)(h) Mobile concessions. Motor Vending~~

~~(1) May not provide seating;~~

~~(2) Mobile concessions Motor vending serving only frozen novelties may operate island-wide, except along arterial roadways. [15] The only proposed changes to motor vending (ice cream trucks); this intended to enhance safety along busy city streets such as Seawall Boulevard, and to align with state transportation laws which similarly restrict these activities.~~

~~(k)(i) 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.~~

Sec. 19-56. – Exceptions, ~~and~~ exemptions, ~~and~~ fees.

~~(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. [16] The addition of temporary concessions makes this provision redundant; however, if City Council chooses not to approve a temporary permit process, staff recommends leaving the above provision as-is to provide nonprofits some ability to host concessions for their events.~~

~~(a)(b) Concessionaire permits and regulations shall not apply to designated state park facilities.~~

~~(b)(e) The area commonly known as Saengerfest Park may allow kiosks to sell perishable or non-perishable goods, services, and commodities subject to the property manager's discretion (Ord. 07-044). [17] This formally codifies an existing ordinance. Note that this section concludes Planning Commission's recommendations; the remainder of this article were not included in their review.~~

- (c) An owner/operator of a concession who is also the operator of a primary business conducted upon the same property and who is selling, through the 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 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 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 shall not be required to obtain a permit under this article.
- (e) With the exception of subsection (b), during the period of Mardi Gras activities or festivals, no person shall peddle or conduct an outdoor concession within the city without first having obtained a permit.
- (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 county health district and permission to sell food or drink from the city prior to the issuance of a Mardi Gras permit.
 - (4) Separate permits are required for each concession and shall not be issued without 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 the city. 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, during the duration of Mardi Gras. When the city, has designated an exclusive concessionaire, the permit fees will be established in accordance with chapter 20.5, article VII(A) and the exclusive concessionaire's contract. In addition to the permit fee, the city reserves the right to require a bond or 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 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.
- (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 (the Mardi Gras ordinance), the Mardi Gras ordinance shall control and prevail.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the 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. All Ordinances of general and permanent nature, and amendments to such Ordinances, hereinafter adopted by the City Council, shall be drafted, so far as possible, as specific amendments of, or additions to, this Code. Amendments to this Code are intended for publication to the Galveston City Code. The Codifier is authorized pursuant to the Galveston City Code to make non-substantive changes to the Ordinance prior to publishing.

SECTION 6. 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 7. This Ordinance shall be and become effective on, from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

SECTION 8. There will be a transition period from the effective date of this Ordinance through December 31 for current concession permit holders to allow those current permit holders to come into conformance with the requirements of the Ordinance. Any new concession permits must comply with the new regulations and requirements as adopted herein. The regulations of this Ordinance will be fully enforced beginning January 1, 2023.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
SR. 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 June 23, 2022, 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 _____, 2022.

Secretary for the City Council
Of the City of Galveston