

City of St. Charles, Illinois

Ordinance No. 2009-Z-12

An Ordinance Amending Chapter 12.04 "General Provision" of Title 12 entitled "Streets, Sidewalks, Public Places and Special Events" of the St. Charles Municipal Code (Pushcart Vendors)

**Adopted by the
City Council
of the
City of St. Charles
September 8, 2009**

**Published in pamphlet form by
authority of the City Council
of the City of St. Charles,
Kane and Du Page Counties,
Illinois, September 11, 2009**

Nancy Garrison

City Clerk



**City of St. Charles, Illinois
Ordinance No. 2009-Z-12**

An Ordinance Amending Chapter 12.04 "General Provisions" of Title 12 entitled "Streets, Sidewalks, Public Places and Special Events" of the St. Charles Municipal Code (Pushcart Vendors)

WHEREAS, the Illinois Municipal Code 65ILCS 5/11-42-5 authorizes Illinois Municipalities to license, tax, regulate, and prohibit itinerant merchants and transient merchant vendors of merchandise; and

WHEREAS, it is in the best interest of the City and Public that Pushcart Vendors be Licensed in the specified areas of the City of St. Charles as detailed in this Ordinance; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION 1. That Chapter 12.04 "General Provisions of Title 12, "Streets Sidewalks and Public Places." of the St. Charles Municipal Code is hereby amended by adding Section 12.04.103 "Pushcart Vendors" as follows:

12.04.103 Pushcart Vendors

A. Operation of Pushcarts Prohibited

It is prohibited and unlawful to operate a Pushcart within the corporate limits of the City of St. Charles without having first obtained a Pushcart Food Vendor License, or in violation of the terms of such License.

B. License - Application - Limits

1. Applications for Pushcart Food Vendor Licenses shall be made to the Building and Code Enforcement Division and shall be required prior to placing the pushcart equipment on any walkway or plaza. Licenses issued hereunder shall be valid from January 1 of any given year or the date of License issuance; whichever is later, through December 31 of the same year.
2. The License fee for a Pushcart Vendor License shall be fifty dollars (\$50.00) for each year the License is obtained.
3. Prior to issuance of a License, the applicant shall furnish a dimensioned plan showing the dimensions of the pushcart. The required diagram is to include the relative proposed location of the pushcart within the Identified Vending Locations, provided for in Section 12.04.103G, and other equipment related to the conduct of the pushcart vendor business.
4. The applicant must submit an approved Kane County Health Department Certificate, A Certificate of Insurance, and an Indemnification Agreement at the time of application for a Pushcart Vendor License.
5. In no event shall the number of Licenses issued pursuant to this Chapter exceed three (3) licenses at any given time.

6. In no event shall more than one License be issued to a single vendor, business, or entity.

C. Definitions

For the purposes of this Chapter, the following terms and phrases shall have the meanings ascribed herein, unless the context otherwise requires.

“Approved Food and Beverage Items” shall mean those items authorized to be sold or dispensed from a pushcart or similar contrivance under the regulations of the Kane County Health Department relating to pushcart food units.

“Person” shall mean, but not be limited to, any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, employees, agents, and independent contractors of the same.

“Pushcart” shall mean any cart that is limited to precooked hot dogs, un-shucked cooked corn, whole fresh fruit, canned beverages, condiments, and prepackaged non-potentially hazardous food.

“Pushcart Food Vendor” shall mean any Person that offers to sell or otherwise dispense food or beverages from a Pushcart.

“Identified Vending Areas” shall mean the specific geographical area(s) specified in Section 12.04.103.G, herein.

D. Pushcart Specifications

1. All Pushcarts shall be capable of being pushed by one person and may not be towed or in anyway propelled by an engine or motor.
2. All Pushcarts shall have a frame no greater than three (3) feet wide by five (5) feet long by five (5) feet high.
3. All Pushcarts must have a minimum of two (2) functional rubber tired wheels with a braking mechanism.
4. Pushcarts may be equipped with an umbrella, in which case, the umbrella height shall not exceed eight (8) feet above adjacent grade.
5. No Pushcart shall have attached to it any bell, siren, light, balloon or other inflatable device, horn, loudspeaker or any similar device.
6. No Pushcart shall have a permanent potable water, wastewater, electric connection, or otherwise use an electric extension cord or generator.

E. Rules of Operation

In addition to any other condition or regulation contained in the City Code or in the statutes of the state, the following conditions and regulations shall be applicable to and shall govern and control the operation of Pushcarts.

1. Pushcarts shall not be operated outside of Identified Vending Areas; said vending areas shall be indicated on the Pushcart Food Vendor’s License. The specific location and dimensions of identified vending locations shall be as designated by the City Administrator. No identified vending location shall have dimensions greater than six feet by eight feet.

2. Pushcart Food Vendors shall operate only between the hours of 6:30 a.m. and 8:00 p.m. The hours of operation shall be extended to 10:00 p.m. during special events and festivals as may be established by the City Code or as determined by the City Administrator.
3. Pushcarts shall not be stored, parked or left overnight on any street or sidewalk or in any parking space or other property owned or controlled by the City or be located so as to be visible to the public.
4. Pushcarts shall be cleaned daily and shall be maintained in a clean and healthful condition.
5. Pushcarts shall not impede, endanger or interfere with pedestrian or vehicular traffic.
6. At all times, there shall be a minimum clearance of no less than five (5) feet around the pushcart for the passage of pedestrians.
7. The immediate area around the Pushcart shall be maintained clean of garbage, trash, paper, cups, cans or litter associated with the Pushcart operation. The Pushcart Food Vendor shall be responsible for the proper disposal of waste and trash associated with its operation. In no event shall the Pushcart Food Vendor utilize City trash receptacles, or other City waste disposal containers.
8. Placement of containers for the collection of waste and trash is prohibited on streets, sidewalks or public places.
9. No item related to the operation of a Pushcart shall be placed on the street, sidewalk, public place, or anywhere other than in or on the cart other than a chair/stool, provided however, that the Pushcart, chair/stool and the Pushcart Food Vendor shall all be located within the limits of the identified vending location.
10. Pushcarts shall be attended at all times except in case of an emergency.
11. No Pushcart Food Vendor may sell or dispense any food item or service to any motor vehicle or any operator or passenger thereof, nor to any person standing in a street or roadway.
12. No items of any kind, other than Approved Food and Beverage Items shall be sold or displayed from a Pushcart.
13. The operation of a Pushcart shall not deface, discolor, mar, mark, damage or destroy the public right-of-way. All stains from cooking, wheels, spillage or any other cause shall be removed within forty-eight hours.

F. Other Requirements

1. The Pushcart shall at all times when in operation comply with all requirements and standards of the Kane County Health Department, and it shall be the obligation of the Pushcart Vendor to maintain a current and valid Kane County Health Certificate during the term of the license issued by the City.
2. There shall be prominently displayed on the Pushcart at all times when in operation (1) a certificate of insurance coverage meeting the requirements set forth in this Chapter; (2) the Pushcart Food Vendor's License issued by the City; (3) an Illinois Department of Revenue Registration Certificate and (4) the License issued by the Kane County Health Department as required by regulations of the County Health Department.

3. As a condition to the issuance of a License required herein, each Pushcart Food Vendor shall execute an agreement by which indemnifies and holds the City, its agents, officials and employees harmless from and against any and all claims, damages and actions at law or in equity arising out of or resulting from the Licensed activity.
4. Discontinuation of operation or relocation during certain activities. The vending business activities conducted by a holder of a Pushcart Food Vendor License shall be discontinued or relocated during festivals, construction or maintenance necessitating the use of the location occupied by the vendor, the vending business activities shall be relocated to another identified vending location, if another such location is available and if not, then such business activities shall be discontinued for the duration of festival, construction or maintenance.
5. Pushcart Food Vendors shall comply with the Illinois Retailer's Occupation Tax Act and the St. Charles Home Rule Municipal Retailer's Occupation Tax Ordinance, as applicable.
6. Insurance Required; Indemnification. Pushcart Food Vendors shall at all times carry comprehensive general liability and products and completed operations insurance coverage with limits of not less than two million dollars (\$2,000,000.00) per occurrence and in the aggregate. Such insurance shall be issued by a company authorized to do business in Illinois, and shall include endorsements (1) naming the City, its agents, officials and employees as additional insureds; and (2) providing that the policy of insurance shall not be cancelled or materially modified unless thirty (30) days' prior written notice is given to the City. Submittal of appropriate evidence of such insurance coverage to the Building & Code Enforcement Division shall be a condition of issuance of a Pushcart Food Vendor's License and such insurance coverage shall remain in effect for the duration of the Pushcart Food Vendor's License. The term of such insurance shall coincide with the term of the Pushcart Food Vendor License.
7. Assignment of an identified vending location to a Pushcart Food Vendor shall not confer any rights in or to the real property, which is the site of the vending location.

G. Identified Vending Locations

The identified vending locations shall correspond to the two (2) downtown locations, as more specifically provided herein.

1. Northeast Quadrant – Freedom Trail from Municipal Center up to Pottawatomie Park property
2. Southeast Quadrant – Path along the Fox River south of the Illinois St. Bridge to Langum Park

H. Conflicts

In the event of a conflict between the requirements of this Chapter and the requirements of the regulations of the Kane County Health Department or any other law, rule or regulation applicable hereto, the stricter requirement shall control.

I. Violation; Penalty

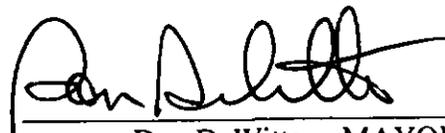
Any person violating any provision of this Chapter shall be subject to the penalties set forth in Section 1.08 of the St. Charles Municipal Code.

SECTION 2. This Ordinance shall be in full force and effect from and after its adoption and approval as provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 8th day of September, 2009.

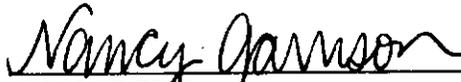
PASSED by the City Council of the City of St. Charles, Illinois, this 8th day of September, 2009.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 8th day of September, 2009.

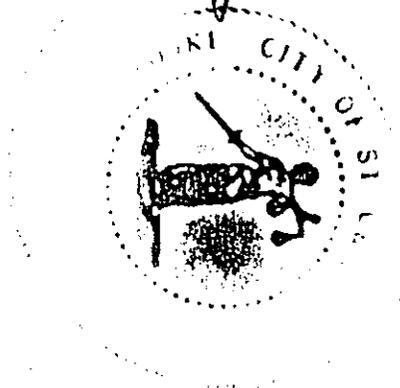


Don DeWitte MAYOR

ATTEST:



CITY CLERK



COUNCIL VOTE:
Ayes: 10
Nays: 0
Absent:

State of Illinois)
) ss.
Counties of Kane and DuPage)

Certificate

I, NANCY GARRISON, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

I further certify that on September 8, 2009, the Corporate Authorities of such municipality passed and approved Ordinance No. 2009-Z-12, entitled

"An Ordinance Amending Chapter 12.04 "General Provision" of Title 12 entitled "Streets, Sidewalks, Public Places and Special Events" of the St. Charles Municipal Code (Pushcart Vendors),"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2009-Z-12, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on September 11, 2009, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 8th day of September 2009.



Nancy Garrison
Municipal Clerk