

CHAPTER 2012-38

No. 346

**AN ORDINANCE IN AMENDMENT OF CHAPTER 14,
“LICENSES,” ARTICLE IX, “PEDDLERS AND HAWKERS” OF
THE ORDINANCES OF THE CITY OF PROVIDENCE.**

Approved June 22, 2012

Be it ordained by the City of Providence:

SECTION 1: Chapter 14 of the Code of Ordinances of the City of Providence, Entitled:

“Licenses,” Article IX entitled, “Peddlers and Hawkers,” is hereby amended as follows:

Article IX. – Peddlers and Hawkers

Sec. 14-169. - Peddlers and hawkers—Purpose.

The purpose of this article is to define peddlers and hawkers, to establish rules and regulations for their operation within the city and to establish licensing requirements for anyone who wishes to sell or offer for sale any goods, wares or merchandise, including any food or beverage on any public street, highway, or public right-of-way from a stationary location or from a vehicle, cart or any other conveyance which is not stationary.

Sec. 14-170. - Same—Definitions.

For the purpose of this section, the following definitions shall apply:

(1) *Entertainment venue*: Providence Performing Arts Center, the Providence Civic Center d/b/a Dunkin' Donuts Center, and Waterplace Park and River Walk zones, as recorded on a map filed with the Board of Licenses including all streets legally closed in conjunction with events produced in these venues.

(2) *Farmers' markets/arts-and-crafts shows*: A management organization that coordinates and manages the sale of goods, wares, merchandise, food or other articles by a number of individuals or businesses at a set location at specific times and days of the week.

(3) *Hawker*: Any person, licensed in accordance with this section, who is selling or offering for sale any goods, wares or merchandise, including any food or beverage, on any public street, highway or public right-of-way in the city from a designated vending site. A hawker sells from a stationary location.

(4) *Lunch cart restaurants*: See the applicable definition in section 10-21 of the city ordinances.

(5) *Peddler*: A peddler is any person, licensed in accordance with this section, who is selling or offering for sale any goods, wares or merchandise, including any food or beverage, from a vehicle, cart, on foot, or any other conveyance or other means which is not stationary.

(6) *Traveling restaurant*: See the applicable definition in section 10-21 of the city ordinances.

(7) *Vending sites*: A vending site is a location identified by the vending plan where a licensed hawkker is authorized to sell any goods, wares or merchandise, including any food or beverage.

Sec. 14-171. - Same—License required.

Except as herein provided, all hawkers and peddlers desiring to sell or offer for sale as hawkers or peddlers, any article or substance within the city, and all persons selling, desiring to sell, or offering for sale, any goods, wares, merchandise, food or other articles or substances on any public way in the city, shall first obtain a license therefore to be issued by the board of licenses, and to that end shall make application to said board for such license, to sell the articles or substances herein mentioned, for a period from a date of issue a such [of such a] license until the first day of May next ensuing such date. Any license granted hereunder shall be subject to the provisions of this article.

Sec. 14-172. - License fees.

For licenses issued as provided herein, the person receiving the same shall pay to the board of licenses the sum established as follows:

(1) Hawkers—\$50.00.

(2) Peddlers—\$50.00.

(3) Vending site—To be determined.

Sec. 14-173. - Licensee to wear badge.

Every person licensed as herein provided, shall also obtain from the board of licenses a badge at least two and one half (2½) inches in diameter and shall, at all times while engaged in the business for which he/she is licensed, wear said badge conspicuously on the outside of his/her outermost garment. The number on said badge shall correspond to the badge number marked on the license, and shall be issued upon the deposit of a sum to be required by the board of licenses to such person as shall obtain the license bearing such badge number. The said badge shall remain the property of the City and shall be subject to recall or collection by any police officer upon evidence of improper use in violation of any provision of this article.

No person shall wear any badge provided for in section 14-173 after the expiration or revocation of the license represented by it. No licensed person shall suffer any such badge, issued to him/her as aforesaid, to be used by another person for any purpose. No licensed person shall make sales or offers of sales in a prohibited location. Peddlers and hawkers with goods, wares or merchandise, including food and beverages, on display or exposed for sale shall be considered to be engaged in the sale of goods. Misused badges may be confiscated, recalled, or collected by a police officer, and licensee shall be subject to the penalties described in Sec. 14-185.

Sec. 14-175. - Refusal to exhibit license and badge.

Any person who shall refuse, after lawful demand by any police officer, to exhibit to him or her his/her license and/or badge, shall be deemed for the purposes of this article to be unlicensed.

Sec. 14-176. - Unnecessary noise prohibited.

Hawkers and peddlers may make reasonable announcement of the merchandise which they have for sale. But, loud outcries or the use of sound amplification equipment, radios, stereos, television sets or similar devices is not permitted, and is regulated by section 16-91 through 16-109, inclusive.

Sec. 14-177. - Provisions not applicable to newspapers.

Nothing herein contained shall apply to newspapers.

Sec. 14-178. - Findings.

In order to limit congestion, to ensure the safe passage of pedestrian and vehicular traffic and to improve the quality of life of the citizenry, it is necessary to control the number, location and operation of hawkers, traveling restaurants and lunch carts, farmers' markets and arts-and-crafts shows licensed in accordance with the provisions of this article.

Sec. 14-179. - Vending sites—Establishment and purpose.

Vending sites are hereby established in order to control the placement, duration, location, number and out-of-doors operation of hawkers licensed in accordance with this article and traveling restaurants and lunch carts licensed in accordance with the provisions of section 10-21, et seq., and farmers' markets and arts-and-crafts shows.

The city plan commission shall, after appropriate study, prepare a "Vending Plan" based on the commissions consideration of the totality of the circumstances affecting hawking in the city, including but not limited to (a) daytime and evening populations, (b) intensity of vehicular traffic, (c) vehicular traffic patterns, (d) existing traffic control devices, (e) existing parking, (f) intensity of pedestrian traffic, (g) pedestrian traffic patterns, (h) roadway and/or sidewalk size and condition, (i) commercial-residential-industrial mix of the area, and (j) established zoning regulations applicable to the area. The plan shall designate vending sites and shall describe the same and it shall determine the number and type of out-of-doors vendors most appropriate. The Plan shall establish a minimum bid amount for a license for each designated vending and may establish minimum license requirements for farmers' markets and arts-and-crafts shows. In addition, the plan may establish rules relating to cart design, product mix, proximity of hawkers to similar existing outlets, and to each other, and other controls deemed necessary. The city plan commission shall review and shall revise, if necessary, said plan, not less frequently than once in every five (5) years. Upon completion of the "Vending Plan" by the city plan commission, the commission shall hold at least one (1) public hearing thereon. After making such changes as it deems necessary, the commission shall adopt the plan by a majority vote of its members and thereafter submit it to the city council for approval by ordinance.

Sec. 14-181. - Licensing.

(a) Upon the adoption of the vending plan and at the end of each calendar year thereafter, the board of licenses shall solicit bids for the designated vending sites. The bids shall be submitted on the forms provided by the board of licenses, and shall require:

- (1) The name of the bidder;
- (2) The name(s), home and business address(es), of any person(s) having a financial interest in the proposed vending operation;
- (3) A statement of the nature, character and quality of the goods, wares or merchandise to be offered for sale;
- (4) The past vending experiences of the bidder, noting items sold and location;
- (5) The type and design of cart to be used;
- (6) The amount bid for each designated vending site; and
- (7) Such other information reasonably necessary to evaluate the bid.

Any bid(s) submitted which does not meet the minimum bid amount for each designated vending site offered shall be eliminated from the bidding process. The board of licenses shall award each designated vending site to the highest qualified bidder for that site. Among the factors to be utilized in determining the highest qualified bidder shall be the similarity of the goods to be offered by the bidder to the goods offered by others in close proximity to that site.

(b) The board of licenses shall issue to each successful bidder a hawker license and a vending site license for the designated vending site. These licenses shall be valid from May 1 to April 30 of the following year. These licenses, along with the badge required by section 14-173, or the traveling restaurant or lunch cart license, shall be incorporated as part of the cart design and shall be displayed at all times of operation as proof of license in the city.

(c) Until a vending plan is adopted, all hawkers and peddlers licenses shall be deemed to be peddler licenses as defined in section 14-170. These licenses shall adhere to the regulations set forth in section 14-183.

(d) The failure to adopt a vending plan shall not permit the issuance of hawker licenses.

Sec. 14-182. - Vending site regulations.

Hawkers shall adhere to the following conditions and any other conditions established by the vending plan:

- (1) Hawkiers shall be restricted to designated vending sites;
- (2) Each designated vending site shall require a separate license;
- (3) Hawkiers shall not offer for sale any goods, wares or merchandise, including food and beverages, within three hundred (300) feet of an entertainment venue for the period from two (2) hours prior to any event at such venue to two (2) hours following such event. The vending plan may modify this distance or establish explicit boundaries within which such sales are prohibited. Under special circumstances, for an individual event, the entertainment venues may submit a resolution to the city council to request an expansion of the three hundred-foot (300-foot) radius. This subsection (3) shall remain in effect for one year following the issuance of the new licenses described in section 14-172.
- (4) Hawkiers shall maintain, per vending site, liability insurance for bodily injury and property damage in an amount not less than five hundred thousand dollars (\$500,000.00) per accident. Proof of insurance must be submitted at the time of application for a license. Any license holder who shall fail to maintain the required insurance for the duration of the license shall be deemed, for the purposes of these sections, to be uninsured.
- (5) All carts shall maintain the requirements of the cart construction specification as set forth in the vending plan.
- (6) Hawkiers shall not sell or display for sale any goods, wares or merchandise in any park, except as may be authorized by the superintendent of parks or the board of park commissioners. Any such authorization must be documented in writing.
- (7) The provisions of this section shall not be construed as to restrict special events held by the City.

Any individual or corporation which holds a peddler's license in accordance with this article or a traveling-restaurant or lunch cart license in accordance with section 10-21 et seq.; of this Code, may sell merchandise in any location not otherwise restricted by this article provided that:

- (1) The vehicle is legally registered;
- (2) The vehicle is licensed by the department of health, if necessary;
- (3) The peddler shall not stop on public property or in a public right-of-way for more than sixty (60) minutes;
- (4) The peddler shall not sell or offer for sale any goods, wares or merchandise, including food and beverages, within three hundred (300) feet of an entertainment venue for the period from two (2) hours prior to any event at such venue to two (2) hours following such event. The vending plan may modify this distance or establish explicit boundaries within which such sales are prohibited. Under special circumstances, for an individual event, the entertainment venues may submit a resolution to the city council to request an expansion of the three hundred-foot (300-foot) radius. This subsection (4) shall remain in effect for one year following the issuance of the new licenses described in section 14-172.
- (5) A peddler shall not set up in a metered parking space or a parking space defined by painted lines to sell any goods, wares or merchandise, including food and beverage. Purchasing the use of a metered space through placing money in the meter or by parking in a legal unmetered space shall not permit the peddler to use the space to operate as a hawker. Peddlers shall be allowed to set up at curbside, so long as it is not designated a "No Parking" zone, and even if time-limited parking is designated there, so long as the given location conforms to the other specifications outlined above.
- (6) A peddler shall not sell or display for sale any goods, wares or merchandise in any park, except as may be authorized by the superintendent of parks or the board of park commissioners. Any such authorization must be documented in writing.
- (7) A peddler shall not be stationary on private property unless:
 - a. The private property is located in commercially or industrially-zoned area;
 - b. The peddler, if other than the owner of the realty, has written and notarized permission from the property owner; and
 - c. The peddler has applied for and has received a hawker's license in accordance with the provisions of the article for a specified site on private property. The application for hawker's license shall specify the site. The fee for said license shall be equivalent to the winning bid for the highest priced designated vending site.
- (8) The provisions of this section shall not be construed as to restrict special events held by the City.

(a) Any individual or corporation may apply for a hawker's license in accordance with section 14-171 of this article to operate a farmers' market or arts-and-crafts show at a site designated for the same in the vending plan. The application for said license shall be submitted on the forms provided by the board of licenses and as a minimum shall require:

- (1) The name(s), address(es) of the individual(s) or corporation(s) making application;
- (2) The site(s) for which the application is being submitted and the proposed days and hours of operation;
- (3) A statement of the nature, character and quality of the goods, wares or merchandise to be offered for sale;
- (4) The past experiences of the individual or corporation, noting items sold and location;
- (5) The technique to be used to display produce and merchandise to be sold; and
- (6) Such other information reasonably necessary to evaluate the application.

(b) Farmers' markets and arts-and-crafts shows shall:

- (2) Require a separate license for each site;
- (3) Maintain liability insurance for bodily injury and property damage in an amount of not less than five hundred thousand dollars (\$500,000.00) per accident. Proof of insurance must be submitted at the time of application for a license. Any license holder who shall fail to maintain the required insurance for the duration of the license shall be deemed, for the purposes of these sections, to be uninsured.
- (4) Meet the requirements for all displays set forth in the vending plan;
- (5) Meet any regulations established in the vending plan.
- (6) Not operate on private property unless:
 - a. The private property is located in a commercially- or industrially-zoned area;
 - b. The individual or corporation has written and notarized permission from the property owner; and,
 - c. The individual or corporation has applied for and has received a farmers' market and arts-and-crafts show license in accordance with the provisions of this article for a specified site on private property. The application for a license shall specify the proposed site.

(c) Fees for farmers' market or an arts-and-crafts show shall be specified in the vending plan but shall consider the number of crafts persons and/or farmers participating therein.

Sec. 14-185. - Violation, penalties and revocation of license.

(a) Every person who shall sell or offer for sale any goods, wares or merchandise including food and beverages shall be required to obtain:

- (1) A valid and current hawker's and peddler's license or a farmers' market/arts-and-crafts license;
- (2) A vending site license for the specific site at which he/she is vending; and
- (3) Written authorization by the superintendent of parks or the board of park commissioners for sales within City parks;

(b) Penalties for violations of any section of this article shall include:

- (1) A seventy two (72) hour confiscation of the hawker's or peddler's license and badge,
- (2) A fine of up to two hundred dollars (\$200.00) or imprisonment of up to ten (10) days for each offense.
- (3) Appearing before the board of licenses which may make a determination to suspend or revoke the hawker's or peddler's license.

(c) Every individual sale or offer for sale made contrary to the provisions of this article shall be deemed and construed as a distinct and separate offense.

(d) In the event an individual is not the holder of a license in accordance with this article and is found to have violated this article he/she shall, not be eligible to obtain any license granted herein for a period of one (1) year from the date of violation.

Sec. 14-186. - Vending plan.

In the event that a designated vending site becomes available after May 1 in any year, the board may accept bids for the same in like manner to the procedure provided above.

No department, board, bureau, commission, agency or other municipal entity, other than the board of licenses, shall grant any license, permission, grant or lease to any cart, farmers' market, or arts-and-crafts show.

Nothing herein shall supersede any portion of existing zoning or land-use ordinances, as the same may be amended.

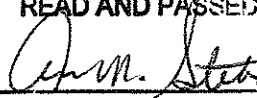
Parking regulations are specifically limited, to the extent necessary, to effect the purposes of this article.

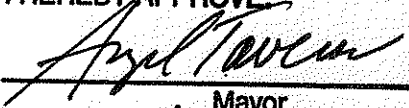


The board of licenses shall promulgate necessary rules and regulations, not inconsistent herewith, to effect the purposes of this article.

No license granted under this section shall be transferable nor automatically renewable and no property interest shall attach beyond the expiration date of any license.

In the event that any portion of this article is deemed to be invalid by a court of competent jurisdiction such ruling shall not invalidate the remainder of this article.

Secs. 14-187—14-192. - Reserved.

IN CITY COUNCIL
JUN 07 2012
FIRST READING
READ AND PASSED

CLERK

I HEREBY APPROVE

Mayor
Date: 6/22/12
IN CITY COUNCIL
JUN 21 2012
FINAL READING
READ AND PASSED

PRESIDENT

CLERK