

BILL NO. 62-2009
AN ORDINANCE

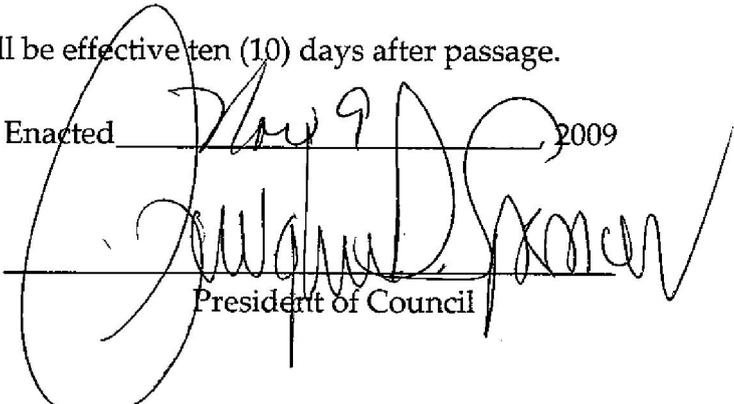
AMENDING THE CITY OF READING CODIFIED ORDINANCES
CHAPTER 10 PART 17 SIDEWALK VENDORS BY PROHIBITING
SIDEWALK VENDOR OPERATIONS OUTSIDE THE DOWNTOWN
IMPROVEMENT DISTRICT ON PUBLIC AND PRIVATE PROPERTY AND
RENUMBERING AS REQUIRED, AS ATTACHED IN EXHIBIT A.

SECTION 1. Amending the City of Reading Codified Ordinances Chapter 10
Part 17 Sidewalk Vendors by prohibiting sidewalk vendor operations outside the
Downtown Improvement District (DID) area on public and private property and
renumbering the sections as required, as attached in Exhibit A.

SECTION 2. All other parts of the Ordinance remain unchanged.

SECTION 3. This Ordinance shall be effective ten (10) days after passage.

Enacted Nov 9 2009



President of Council

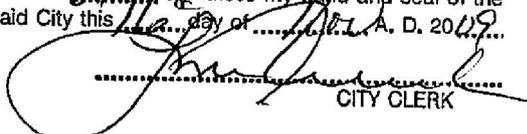
Attest:



City Clerk

(Council Office)

I, LINDA A. KELLEHER, City Clerk of the City
of Reading, Pa., do hereby certify, that the fore-
going is a true and correct copy of the original
Ordinance passed by the Council of the City of
Reading, on the 9 day of Nov
A. D. 2009. Witness my hand and seal of the
said City this 11 day of Nov A. D. 2009.



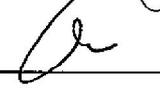
CITY CLERK

Submitted to Mayor: 

Date: 11-10-09

Received by the Mayor's Office: 

Date: 11-12-09

Approved by Mayor: 

Date: 11/13/09

Vetoed by Mayor: _____

Date: _____

EXHIBIT A
PART 17
SIDEWALK VENDORS

§10-1701. Purpose

The purpose of this Part is to provide for the regulation of sidewalk vendors in the City of Reading to promote an active and attractive pedestrian environment. The City of Reading has the responsibility to provide public safety for pedestrians and to protect *residential neighborhoods and* public facilities. Whereby, reasonable regulation of sidewalk vendors is necessary to protect the public health, safety, and welfare in the public right of way. It is the finding of City Council that the regulation of sidewalk vendors *on public and private property* is necessary to promote the orderly and efficient use of sidewalks, to prevent undue interference with established businesses and to assure the performance of essential utility, traffic control and emergency services.
(Ord. 63-2007, 8/13/2007, §1)

§10-1702. Title

This Part shall be known as the "Sidewalk Vendor Ordinance."
(Ord. 63-2007, 8/13/2007, §1)

§10-1703. Interpretation

The provisions of this Part shall be construed to be the minimum requirements necessary to serve the general welfare and safety of the residents of the City of Reading. Where the provisions of any statute, other ordinance or regulation impose greater restrictions or higher standards than those enumerated in this Part, the provisions of such statute, ordinance or regulation shall govern.
(Ord. 63-2007, 8/13/2007, §1)

§10-1704. Definitions

For the purpose of this Part, certain terms shall be defined as follows:

DOWNTOWN IMPROVEMENT AUTHORITY AREA – the City's Central Business District, as created through the enactment of Bill No. 41-2005 on June 27, 2005. Please see the map located at www.downtownreading.com

KIOSK - a freestanding structure upon which temporary information and/or posters, notices and announcements are posted; an open gazebo, pavilion or similar structure used as a newsstand, refreshment booth or the like.

MOBILE VENDOR - a vendor or seller of food and/or goods from a vehicle or other conveyance upon the public streets or alleys of the city that does not typically remain stationary for more than approximately 10 minutes each hour.

OFFICIAL MAP - the topographical survey of the City of Reading, Pennsylvania on file in the Engineering Office.

PASSABLE - free of any impediment or obstruction, whatsoever, that would hinder the travel of the public.

PRIVATE PROPERTY - *property owned by a person or jointly by a group of persons, legal persons or business entities.*

PUBLIC RIGHT-OF-WAY - any place of any nature which is legally open to public use and used and/or intended for vehicular or pedestrian traffic, including public streets, alleys, sidewalks, and roadways, but excluding any public property of the City of Reading. The official topographic survey map of Reading, Pennsylvania, on file in the Engineering Office shall be the final authoritative document should the existence of any street, dedicated or not be disputed.

PUBLIC OUTDOOR PAY TELEPHONE - any outdoor publicly accessible pay telephone any portion of which or its enclosure is situated on, projects over, or hangs over a portion of the public right-of way; or is situated such that it can be used by a person standing on the public right-of way.

PUBLIC PROPERTY - all real and personal property, whether within or outside the corporate City limits, belonging to the City of Reading, excluding that which is used and/or intends for use by vehicular or pedestrian traffic and defined herein as a public right-of-way.

SANDWICH BOARD - any portable sign which is intended, by design, use or construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse.

SIDEWALK - that portion of a public right-of-way for which paving is required under this Part of the Codified Ordinances of the City of Reading and which is used primarily for pedestrian travel.

SIDEWALK AREA - that portion of the public right-of-way occurring between the curb line and the topographical building line.

SIDEWALK VENDOR - person or persons who exhibits, displays, or sells any food, beverage, goods, printed materials or merchandise from any stand, cart vending machine or trailer while on or about the sidewalk area.

SIDEWALK VENDOR LICENSE - the written authorization, issued by the City of Reading, to construct, install, erect, or place any obstruction within the public right-of-way. The license must be displayed prominently on each stand, cart, trailer and/or obstruction.

STATIONARY VENDOR - *an itinerant vendor who conducts business (a) from a vehicle or other conveyance, or (b) in or about a structure that is not permanently affixed to real property and that is located upon privately owned property and not on a public street, sidewalk, alley or public way of the city.*

STAND - any structure, device or object erected, installed, or placed within any portion of the public right-of-way or chained, bolted or otherwise attached to a building or structure in such a manner that any portion of said structure, device or object projects over or into the public right-of-way used to exhibit, display or sell food or goods. Stands shall include, but are not limited to, kiosks, news-racks, newsstands, outdoor pay telephones, sandwich boards, stands, street furniture and vending machines. The terms "tables," "carts," "stands" and "trailers" shall be used interchangeably throughout this Part and should be construed to the same meaning.

TRAILER - vehicle designed to be towed by a motor vehicle.

VEHICLE - a device or structure for transporting persons or things; a conveyance that is self-propelled and runs on tires.

VENDING CART - small, light vehicle moved by hand for the purpose of conducting food sales.

VENDING LICENSE BOARD - Board authorized to approve permits and the location of sidewalk vendors, pursuant to §10-1710.

VENDING MACHINE - any self-service device that provides for the sale or distribution of food, beverage or goods, newspapers, or other printed materials either in bulk or in package, without the necessity of replenishing the device between each vending operation.

(Ord. 63-2007, 8/13/2007, §1)

§10-1705. License Required

1. It shall be unlawful for any person to engage in the business of a sidewalk vendor within the City of Reading without first obtaining a license pursuant to this Section. Such sidewalk vending activities are only permitted within the Downtown Improvement Authority (DID) area and between the southern ~~border~~ *right-of-way line* of Franklin Street, the northern ~~border~~ *right-of-way line* of Washington Street, the western ~~border~~ *right-of-way line* of Front Street and the eastern ~~border~~ *right-of-way line* of 11th Street. ~~, except as provided in §10-1706. Sidewalk vending activities outside the Downtown Improvement Authority (DID) area may be permitted in accordance with Section 10-1706 contained herein.~~

Vending is prohibited on private property as per the Zoning Ordinance, City of Reading Codified Ordinances Chapter 27, Section 902 – Limit of One Principle Use states “No more than one principal use shall be permitted on a lot, unless specifically permitted by this Chapter. A principal use shall not be located in an accessory building or structure.”

Vending is prohibited in all areas outside the Downtown Improvement Authority (DID) area.

Pre-existing vendors operating inside ~~and outside~~ the Downtown Improvement District (DID) area are required to comply with all regulations contained herein and shall not be “grandfathered”.

2. The restrictions of this Section shall not apply to itinerant food operations associated with the organized festival, carnival, fair, parade, picnic or other affair that may be approved or sponsored by the City or its associated bureaus or agencies, in such areas which may be designated and approved for itinerant food operations on a temporary basis.

A. **Location, Type and Number.** A sidewalk vendor license shall only be issued for and restricted to vendor sales from an approved stand at specific and fixed locations within the Downtown Improvement Authority (DID) area. ~~, except as provided in §10-1706.~~ All sidewalk vending shall be conducted within the public right-of-way, as defined herein. *Up to a maximum of fifteen (15) sidewalk vending licenses shall be issued for food-related sales annually for the Downtown Improvement Authority*

(DID) area as determined by the Vending License Board. Ten sidewalk vending licenses for self-serve vending machines will be issued annually. The Vending License Board shall determine the exact location of each vendor or vending machine in each district *the Downtown Improvement District (DID) area*. ~~City Council shall determine the location of sidewalk vendors in area outside the Downtown Improvement District.~~ The City *Council* may increase or decrease the number and locations of the sidewalk vendors at any time with proper notification to the vendors. The City *Officials* may, if necessary, temporarily relocate any or all vendor(s) by giving the vendor(s) 48- hour notice.

B. More than Two Licenses Prohibited. A person who holds or has an interest in two sidewalk vendor licenses as an owner, partner or shareholder shall not have any additional interest, either directly or indirectly, as an owner, partner or shareholder in any other sidewalk vendor license.

C. License Nontransferable. A sidewalk vendor license shall not be transferable to another holder except upon the permanent disability of the holder, and any prohibited transfer of the license shall work an automatic forfeiture thereof. If the license holder is not a natural person, the transfer of any ownership interest in the holder of the license shall be deemed a prohibited transfer. *(Ord. 63-2007, 8/13/2007, §1)*

~~**§10-1706. Permitting for Sidewalk Vendors Outside the Permitted Area**~~
~~Applications for sidewalk vendor outside the Downtown Improvement Authority (DID) area shall be submitted to the Codes Enforcement Office in accordance with the regulations contained herein. City Council shall review and consider the approval of these applications and determine the fixed location for each applicant. Vendors will be informed by first class mail if their application is approved or denied within 30 days. *(Ord. 63-2007, 8/13/2007, §1)*~~

§10-1706. License Application

1. Notice of License Availability. Applications for sidewalk vending licenses will be available between March 1 and March 15 in the City of Reading Codes Office. Notice of such availability will be made through a newspaper of general circulation not more than 30 days nor less than 14 days prior to March 1.

2. Application. Any person interested in applying for a sidewalk vendor's license may, after public notice listed above, make application by filing such forms containing the required information with the City of Reading Codes Office with a nonrefundable application fee of \$50 no later than 4 p.m. on March 15. The application shall at a minimum set forth:

- A. True name and address of the applicant. P.O. boxes will not be permitted.
- B. Photographs and specifications of the proposed sidewalk vendor cart(s), stand(s) or trailer(s) to be used in sufficient detail showing compliance with the design criteria, standards, and specifications in §10-1707 herein.
- C. Sufficient detail about the proposed sidewalk vendor and the products proposed for sale must be submitted with the application for evaluation and compliance with applicable City and State Health Codes, along with copies of the required City and State health permits.
- D. A copy of the applicant's business privilege license.
- E. A copy of the permit allowing for the use of on-unit heating, cooking, water, electrical or cooling devices. Utility connections to neighboring properties shall be prohibited.
- F. A complete listing of the items to be offered for sale or distribution.
- G. The locations the sidewalk vendor would like to operate at.

Applications will be initially reviewed by the Codes Office for completeness. Incomplete applications may be amended one time and resubmitted on or before March 15 as stated above.

3. Review of Applications. Not more than 45 days following application deadline, the Vending License Board shall complete the review of all applications filed and notify the applicants of the results thereof in writing. An application shall be denied and the applicant shall be ineligible for a sidewalk vendor license if:

- A. The application is incomplete in any material respect.
- B. The proposed vending cart does not comply with the cart design criteria, standards or specifications and/or applicable health requirements.
- C. The applicant does not have a business privilege license.
- D. The applicant, or any natural person having an interest in the entity making the application, has:
 - (1) An interest in more than two sidewalk vendor licenses.
 - (2) Within the past 5 years held or had an interest in a sidewalk vendor license that has been revoked.

(3) Within the past 10 years been convicted of selling, offering to sell or possession with intent to sell a controlled substance or convicted of a felony.

E. If an application is denied, the applicant shall be notified in writing of the reason(s) therefore within ten (10) days.

Note: In the event two or more sidewalk vendors apply to operate in the same location, a lottery system will be used to make the determination.

4. Each license shall be issued for one calendar year, April 1 through March 31 and shall be subject to review during the calendar year for adherence to the requirements of this Part.

(Ord. 63-2007, 8/13/2007, §1)

§10-1707. Design Standards.

1. Design and Appearance.

A. General Requirements. All sidewalk vendor carts, trailers or stands shall be designed to be attractive, easily maintained in a sanitary condition, and mobile. ~~There will be no fixed design as such; however, literature on designs, manufacturers, costs and similar details will be available in the City Codes Office.~~ In addition, vending must comply with State and local health and sanitation requirements on such matters as refrigeration, cooking, utensils and appliances, materials and food storage. A health permit must be obtained by all vendors selling food before operation of sales begins.

B. Required Physical Features.

(1) **Dimensions.** The dimensions of the vending cart shall not exceed 4 feet x 8 feet. This is the largest in operation size and states the largest exterior dimensions permitted (including wheels, handles and similar parts). Fold-out shelves *for the display of* larger merchandise are permitted, provided there will be no interference with pedestrian movement. *Fold out shelves cannot be used to provide space for customers to consume the products dispensed by the vendor. Awnings and canopies, both attached and unattached from the cart, are prohibited.*

(2) **Mobility.** Vending carts must have at least two wheels. They must permit easy movement and maneuverability in the event of emergency and required relocation.

(3) **License Display.** The vending license must be clearly displayed on the cart in such a manner and location as to be clearly visible to customers.

- (4) **Trash Receptacles.** Each vending cart will have provisions for vendor and customer trash disposal. Vendors are responsible for proper disposal of this trash whenever the container becomes full or, at a minimum, at the conclusion of the day's operation.
- (5) **Covers.** Umbrellas or canopies are desirable. The umbrella must not conflict with public passage on the right of way, nor be obtrusive to vendors' signs or neighboring business. The cover must be well maintained.
- (5) **Carts Self-Contained.** All sidewalk vendor carts shall be so designed that all sale activities, including trash disposal facilities, can be conducted totally from the vending cart. Use of the sidewalk by a vendor for product display, storage, or disposal of trash shall be prohibited.
- (6) **Utility Connections.** Utility connections for water, cooking, cooling, electric, heating, etc., must be contained in the unit. Utility connections to neighboring properties shall be prohibited.
- (7) **Fire.** A 5 pound ABC type dry chemical fire extinguisher is required for all vending carts utilizing a flame for any purpose.
- (8) **Hand washing Facilities.** Each vending cart must have a hand wash sink with hot and cold water, a posted sign indicating "Employees must wash hands, and comply with the standards as required by the Pa. Dept of Agriculture
- (9) **Refuse.** All vending carts must have a refuse receptacle with a tight fitting lid on the unit and a separate refuse receptacle for customers as required by the Pa. Dept of Agriculture. Receptacles must be properly emptied when full or at a minimum at the close of business.
- (10) **Cold and Hot Holding Units.** Refrigeration and cold holding units must be capable of reaching and maintaining 41° F or below when in use. Hot holding units must be capable of holding foods at 135° F or above, as required by the Pa. Dept of Agriculture.
- (11) **Dish washing.** Single service articles must be used unless adequate dishwashing facilities are available and used. Adequate facilities will include a three compartment sink (separate from the hand washing sink) set up for accomplishing a 3-step method of dishwashing. Where only spatulas, tongs, and similar devices are washed and sanitized, and only stationary equipment must be cleaned, a two-compartment sink may be approved – as required by the Pa. Dept of Agriculture.
- (12) **Food and Ice.** All food and beverages must be clean, wholesome, free from spoilage, free from adulteration and safe for human consumption, as required by the Pa. Dept of Agriculture. All food and beverages shall be from approved sources. Food prepared in a private

home can only be used if that facility is licensed, registered and inspected by the Pa. Dept of Agriculture and the City of Reading.

(13). **Sign.** No sign shall be permitted except an identification of the vendor's business name and the listing of items available to sale and the price thereof. The sign must not be obtrusive to the public way or conflict with neighboring businesses. (*Ord. 63-2007, 8/13/2007, §1*)

(14) **Serve Safe Certificate.** All vendors are required to obtain and maintain a Serve Safe Certificate from the Department of Agriculture, as required by the State Food Employee Certification Act, within three months of the approval of their Sidewalk Vendor Permit.

C. Prohibited Features.

(1) Advertising other than the name of the vendor's business or suppliers. (Advertising must appeal to the sensibilities of the general public.)

(2) Propulsion systems other than manual.

(3) Gas cylinders larger than 20 pounds.

(4) Vending directly from a motor vehicle is prohibited.

(5) *Tables, chairs, benches, stools and any other device that would allow the consumption of the product dispensed by the vendor.*

(6) *Fold out shelves cannot be used to provide space for customers to consume the products dispensed by the vendor.*

(7) *Awnings and canopies, both attached and unattached from the cart, are prohibited.*

D. Waivers will not be permitted for any requirement based on health, safety or sanitation considerations.

E. All carts shall comply with standards and specifications described herein and adopted by the City and the State. Failure to comply shall be sufficient grounds for rejection of a vending license application or suspension or revocation of any license issued.

F. **Maintenance.** All sidewalk vendor carts shall at all times be maintained in good condition and repair. Any repairs to or replacements of sidewalk vendor carts shall comply fully with the existing design criteria, standards and specification. No replacement cart may be placed into operation until approved.

§10-1708. Sidewalk Vendor Operation Standards

1. **Days and Hours of Operation.** Sidewalk vendor sales may be conducted daily in areas outside the Downtown Improvement between the hours of 9:00 a.m. and

~~5:00 p.m. from October 1 through March 31 of each year and between the hours of 9:00 a.m. and 7:30 p.m. from April 1 through September 30 of each year, unless otherwise permitted or restricted by regulations adopted by the City.~~ Sidewalk vendor sales inside the Downtown Improvement District may be conducted between the hours of ~~9 a.m.~~ **6:00 a.m.** to 8 p.m. during the permit year.

2. Daily Removal. Sidewalk stands and accouterments shall be removed from the sidewalk daily, not later than ½ hour after the close of business or and not returned thereto earlier than ½ hour before the time permitted for opening, unless otherwise provided by the regulations adopted by the City. Any item not removed from the sidewalk at the close of business may be removed and stored by the City of Reading. The vendor will be charged for costs, storage and the penalty prescribed under §10-1714 herein.

3. Safe and Sanitary Condition. Sidewalk vendor carts and vending areas shall be maintained in a safe, broom-clean and sanitary condition at all times.

Sidewalk vendor carts licensed hereunder to sell food products shall:

A. Be subject to inspection at any time by a City of Reading Codes Inspector and shall at all times be licensed under and be in compliance with all applicable State and local codes.

B. If using portable heating or cooking facilities, subject to inspection at all times by the City of Reading Fire Marshal and Codes Office and shall comply with all applicable codes of the City of Reading. A permit must be obtained from the Fire Marshal before operation of sales begins.

4. Quiet Operations. Sidewalk vendors shall conduct business in an orderly fashion and shall not make loud or raucous noises or use sound amplifying devices to attract attention, nor verbally hawk or solicit product sales to pedestrians or motorists.

5. Use and Maintenance of Sidewalk. All sales and related activity shall be conducted from the vending area during which times the vending cart shall not be moved from the assigned vending location. No products shall be stored or displayed, on the sidewalk or any adjacent outside area. The sidewalk vendor shall be solely responsible to keep the sidewalk area free of trash, litter, debris or spillage generated by the vendor's business:

The vending cart shall be placed so as not to impede the free movement of pedestrian traffic. The use of tables, chairs, benches, etc., around the vending cart is strictly prohibited.

6. **Display.** The sidewalk vendor license, the City of Reading health permit and the State serve safe certificate shall be posted in plain view of the customers at all times the vendor is operating.

7. **Public Liability Insurance.** Each license holder shall maintain and provide the City of Reading with proof thereof, insurance for public liability, with minimum coverage of \$100,000 per individual and \$500,000 per incident.

8. **Prohibitions.** An object, device or structure as regulated under the terms of this Part shall be expressly prohibited when its construction, erection, installation or placement would result in any of the following conditions:

- A. A passable sidewalk width less than 5 horizontal feet.
- B. A horizontal projection from the building line in excess of 5 feet.
- C. A reduction in sight triangle.

(Ord. 63-2007, 8/13/2007, §1)

§10-1709. Suspension or Revocation of License

A sidewalk vendor license shall be subject to suspension or revocation by the City for violation of any provision of this Part or any regulations promulgated or enacted hereunder, or violation of applicable State or local, including but limited to all health or safety regulations, zoning and taxation.

(Ord. 63-2007, 8/13/2007, §1)

§10-1710. Vending License Board

The Vending License Board shall consist of ~~the~~ one member of the Board of Directors of the Reading Downtown Improvement District Authority (DID) or their designee, one member of the City of Reading Planning Commission or their designee, one representative from the Greater Reading Chamber of Commerce, one employee from the Codes Office, Reading Police Traffic Enforcement and Public Works.

A. **Responsibilities.** The Vending License Board shall have the following responsibilities and duties:

- (1) Meet no later than April 1 annually to review and approve vendor license applications.
- (2) Determine vendor locations for each approved applicant within the Downtown Improvement Authority (DID) area.
- (3) Recommend amendments to this Part to the Council of the City of Reading.

(Ord. 63-2007, 8/13/2007, §1)

§10-1711. Enforcement

This Part will be enforced under the jurisdiction of the City Codes Office and the Reading Police Department.

(Ord. 63-2007, 8/13/2007, §1)

§10-1712 Appeal to Court of Common Pleas

Any person aggrieved by any decision of the respective Board, may appeal to the Court of Common Pleas of Berks County. Such appeal shall be made by a duly verified petition in accord with the Pennsylvania Rules of civil Procedure and shall set forth the factual and legal basis upon which the decision of the Board is alleged to be illegal, in whole or in part. Such petition shall be filed with the Court of Common Pleas and a notice thereof served upon all parties to the appeal, including the Sidewalk Vending Board and City of Reading, within thirty (30) days after service of the decision.

§10-1713. Construction and Severability

In the event any provision, Section, sentence, clause or part of this Part shall be held to be invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect or impair any remaining provision, Section, sentence, clause or part of this Part, it being the intent of the Council of the City of Reading that such remainder shall remain in full force.

(Ord. 63-2007, 8/13/2007, §1)

§10-1714. Penalty

Any person violating any provision of this Part or of the regulations promulgated hereunder, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of \$75 - \$1,000 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than 90 days or both. Each day during which the person violated any provision of this Part shall constitute a separate offense. Institution of a prosecution for the imposition of the foregoing penalty shall not be construed to limit or deny the right of the City to such equitable or other remedies as may be allowed by law.

(Ord. 63-2007, 8/13/2007, §1)