

Legislation Text

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Amending Chapter 9-200 of The Philadelphia Code, entitled "Commercial Activities on Streets," by amending Section 9-204, entitled "Sidewalk Vendors in Center City," to change certain requirements for vending licenses and the process for obtaining locations for Center City sidewalk vending, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-200 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 9-200. COMMERCIAL ACTIVITIES ON STREETS.

* * *

§ 9-204. Sidewalk Vendors in Center City.

(1) Definitions.

* * *

(c) *Employee.* For purposes of this Section, an individual who renders services at a vending stand at the direction and under the control of the licensee of that stand, and from whose compensation the licensee deducts and pays wage tax to the City pursuant to § 19-1504 of this Code.

[(c)] (d) Sidewalk. * * *

[(d)] (e) Stand. * * *

[(e)] (f) Sidewalk Vendor. * * *

[(f)] (g) Vendor Advisory Board. * * *

* * *

(2) Exemptions. The provisions of this Section shall not apply to:

* * *

(e) Sidewalk vending by owners and tenants of properties at the locations listed in subsection (f). Such vending shall be permitted and shall be exempt from the provisions of Section 9-205 and 9-204, including, but not limited to, the license requirement of subsections 9-205(3) and 9-204(3), provided:

* * *

(3) License. It shall be unlawful for any person to engage in the business of a sidewalk vendor within Center City without first obtaining a license pursuant to this Section from the Department.

(a) Each license shall show the name and address of the licensee, the category of goods to be sold (prepared food, produce and flowers, or merchandise), the blockface on which the licensee is permitted to vend, [the time period or periods for which the vendor is licensed (Day, Evening, and/or Weekend),] the amount of the license fee, the date of issuance *and date of expiration*, the license number, an identifying description of the stand used by the licensee and[, if applicable,] the motor vehicle trailer registration number. [Each license shall also show the expiration date of the license and the licensee's plate number as issued by the Department.]

* * *

(c) No more than [two (2) licenses] *one (1) license* shall be issued under this Section to any one person, and each such license shall permit the licensee to operate only one (1) stand.

(1) A licensee who holds two licenses for vending under this Section as of January 1, 2018 may retain the second license until such time as one of such licenses may be suspended or revoked, or the licensee chooses to terminate the second license.

(d) All licenses issued under this Section shall permit the licensee to conduct licensed operations only on the single blockface designated in the license. Subject to the restrictions set forth in subsection 9-204[(10)](11), and subject to subsection 9-204[(8)(f)](6)(c), a licensee may conduct licensed operations from any location on the designated blockface.

(e) A vending cart licensed under this Section 9-204 may only be operated by the licensee or by one or more employees, as defined in this Section, of the licensee.

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[(e) Each license shall permit the licensee to conduct licensed operations during any or all of the following three (3) time periods: Day (six a.m. to six p.m., Monday through Friday); Evening (six p.m. to eleven p.m., Monday through Friday); and Weekend (Saturday and Sunday). Licensees need only obtain a single license to conduct licensed operations on a blockface during any one (1), two (2) or all three (3) of these time periods, subject to the provisions of subsection 9-204(12)(c)(.3).]

(f) [Every] *Each license is issued for the sole and exclusive use and benefit of the person in whose name it is issued and shall be non-assignable and non-transferable through any instrumentality whatsoever, including, but not limited to, a conveyance, leasehold, trust, power of attorney, or devise.*

(4) License Issuance. Licenses *under this Section* shall be issued [upon compliance with the following] *as follows*:

[(a) The applicant furnishes the following:

(.1) proof of identity and address, together with two (2) photographs of the applicant, not less than two (2) inches square, nor more than three (3) inches square;

(.2) the category of what is to be sold (prepared food, produce and flowers, or merchandise);

(.3) the applicant's five (5) selections, in order of the applicant's preferences, as to the blockfaces at which he or she wishes to vend, selected from the list of available and permitted blockfaces designated pursuant to subsection 9-204(8) and for each such blockface, the time period or periods (as set forth in subsection 9-204(3)(e)) during which the applicant wishes to vend;

(.4) the applicant's current and valid Pennsylvania sales tax identification number, and current and valid Philadelphia commercial activity license number;

(.5) payment of a non-refundable application fee of \$20, which fee shall be credited toward the annual fee if the license is issued.

(b) The applicant, after being notified by the Department that his application has been provisionally approved:

(.1) agrees to an approved location selected pursuant to subsection 9-204(8);

(.2) has his stand inspected and approved, if required by subsection 9-204(9);

(.3) pays the first year license fee of \$330; and

(.4) attends an orientation session conducted by the Department at which the applicant will receive a booklet containing copies of this Section and applicable regulations, and at which those provisions will be explained.]

(a) Whenever two or more vending locations become available in Center City, the Department will conduct a lottery to choose among qualified applicants to award a license to vend at one of the available locations. To qualify for the lottery, an applicant must hold a current vending license under § 9-205 or §9-206 of this Code, that was issued prior to the date that the Department publicly announces the lottery.

(b) The Department shall provide notice of the lottery and the available locations, at least thirty (30) days in advance of the date of the lottery. Notice shall be posted on the Department's website, at locations at which licenses are issued, and provided by email to current licensees who have provided an email address to the Department.

(c) The Department shall randomly select new licensees, for the number of currently available locations under this Section, from the pool of approved license numbers submitted at least 72 hours in advance of the announced date and time of the lottery. The licensees selected through the lottery may pick from the available locations in the order in which their number was drawn.

(d) Within one week of notification of their selection, the selected licensee(s) shall contact the Department regarding the location chosen, and shall appear in person at the Department and provide:

(.i) Proof of identity and address;

(.ii) Current vending license;

(iii) *Valid Pennsylvania sales tax identification number and Philadelphia commercial activity license number;*

(iv) *The category of goods to be sold at the stand (prepared food, produce and flowers, or merchandise); and*

(v) *Initial Center City license fee of \$330.00.*

(e) *Selected licensees shall begin operations pursuant to a license approved under this Section within 60 days from satisfaction of all requirements in § 9-204(4)(d), or within such other time limit as the Department may require.*

(5) Identification and License [Plates] *Display.* Each person licensed under this Section or his employee shall, while engaged in the business of vending, carry a license on his person. In addition to the *carried* license, the Department shall issue a [license plate] *sticker* bearing the words "[Sidewalk] *Center City Vendor*," the year for which issued, *the assigned location of the stand*, and the number of the license [plate], which shall *be the same* [correspond to the] number [which appears] *as that* on the *carried* license. The words "[Sidewalk] *Center City Vendor*" and the license [plate] number shall be of uniform size and plainly discernible. The [license plate] *sticker* shall be [attached] *permanently affixed* to the stand *by the Department*, in a place which is clearly visible to the public. [The color of the license plate shall be changed at the beginning of each calendar year.] Licenses [plates and licenses] *and stickers* shall be [used] *carried and displayed* only by the person to whom they were issued or [his] *by that person's* employee and may not under any circumstances be transferred to any other person.

(6) License Renewal; Change of License Information; Change in Category of Goods Sold.

(a) The Department shall send to each person licensed under this Section, at a time reasonably in advance of the end of each license year, a renewal license. If the licensee returns the renewal license to the Department, together with payment of the annual renewal fee of \$330 and a statement of the changes, if any, in the license information required by subsection 9-204(4), the Department shall then validate the renewal license and return it, together with a new [license plate] *sticker to be affixed on the stand*, to the licensee, who shall thereby be licensed for the succeeding license year. If the licensee fails to return the renewal license to the Department within thirty (30) days of the date the Department sent it to the licensee, an employee of the Department shall on one occasion visit the blockface for which the licensee is licensed during the licensee's usual hours of operation in an attempt to contact the licensee personally and inform the licensee of the need to return the renewal license to the Department. If the licensee fails to return the renewal license to the Department within thirty (30) days of the date the Department employee visited the licensee's blockface (whether or not the employee was able to contact the licensee), then the licensee shall be deemed to have failed to apply for renewal, the license shall not be renewed, and the licensee's blockface location shall be reassigned in accordance with the [regulations adopted pursuant to subsection 9-204(8)(c)] *procedures of subsection 9-204 (4).*

* * *

(c) *The renewed license shall permit the licensee to continue to vend from the same blockface location as designated in the license being renewed.*

(d) *Licensees under this Section 9-204 who intend also to conduct vending in a non-Center*

City location under Section 9-205 or 9-206 of this Code shall also maintain their license under those Code sections and comply with any additional requirements for such license.

* * *

(8) Vending Locations.

* * *

(b) [Reserved.

(c)] The Department shall maintain and make available *on its website and* for public inspection during regular business hours a complete list of all permitted vending locations as designated by Ordinance.

[(d) The Vendor Advisory Board shall develop and submit to the Department for final consideration regulations devising procedures, in accordance with the provisions of subsection 9-204(8)(d), to choose among competing applicants for a particular blockface if not all applicants may be accommodated on that blockface, to assign blockfaces to applicants whose preferences cannot be accommodated, to create a waiting list and other methods as necessary to reassign blockface locations that become available because of license revocation or failure to renew a license, and to assign new locations to licensees who wish or are required, pursuant to subsection 9-204(8)(f), to change locations.

(e) Applicants for a particular blockface shall be chosen as follows:

(.1) Applicants who have conducted licensed vending operations on such blockface for at least two (2) years from the date this Section became law shall receive first preference. Such applicants shall be ranked according to the number of whole years (but not portions thereof) they have conducted licensed vending operations on such blockface, and selections among equally ranked such applicants shall be by lottery, unless such equally ranked applicants agree among themselves who shall be selected.

(.2) If the maximum number of sidewalk vendors on a particular blockface is not filled by the procedure set forth in subsection 9-204(8)(d)(.1), then next preference shall be granted to applicants who have conducted licensed vending operations at a location within one thousand feet of such blockface for at least two (2) years from the date this Section became law. Such applicants shall be ranked according to the number of whole years (but not portions thereof) they have conducted licensed vending operations at such location, and selections among equally ranked such applicants shall be by lottery, unless such equally ranked applicants agree among themselves who shall be selected.

(.3) If the maximum number of sidewalk vendors on a particular blockface is not filled by the procedures set forth in subsections 9-204(8)(d)(.1) and 9-204(8)(d)(.2), then any additional applicants for such blockface shall be ranked according to the number of whole years (but not portions thereof) they have conducted licensed vending operations at a location in Center City, and selections among equally ranked such applicants shall be by lottery.

(.4) If a person applies for more than one (1) license, such person may have his past vending operations considered under subsections 9-204(8)(d)(.1) and (.2) only for a single blockface location.

(f) Licenses that are renewed shall permit the licensee to continue to vend from the same

blockface as designated in the license being renewed.]

[(g)] (c) Issuance of a license for a particular blockface is not a guarantee that such blockface will remain a permitted vending location for the duration of the license or any renewal periods. Council may by ordinance remove a blockface from the list of designated blockfaces, or reduce the number of vendors permitted on such blockface. If Council removes a blockface from the list of designated blockfaces, vendors licensed for such blockface must apply to the Department for a new blockface designation [under the procedures adopted pursuant to subsection 9-204(8)(c)]. If Council reduces the number of vendors permitted on a blockface, the Department shall determine which vendor or vendors may no longer vend on such blockface, [pursuant to the criteria set forth in subsection 9-204(8)(d),] and such vendor or vendors must apply to the Department for a new blockface designation. [under the procedures adopted pursuant to subsection 9-204(8)(c).] *In such instances, the Department may give such displaced vendors priority when other Center City locations become available, prior to conducting a lottery under subsection (4)(a).*

(d) *All licenses issued under this Section 9-204 are subject to temporary business interruptions and the locations may be unavailable for vending at certain times, such as during large City-sponsored special events, the conduct of street or sidewalk repairs, or other similar occasions. The Department shall give as much notice as possible to affected licensees of the occurrence of such interruptions, and will endeavor to make alternative, temporary locations available.*

(9) Permitted Stand Designs and Required Stand Maintenance.

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(b) The regulations promulgated pursuant to subsection 9-204(9)(a) shall include specific approved designs. If a licensee wishes to use a design other than one [(1)] of those specifically approved by regulation, the licensee must submit the proposed stand design, in detail required by the Department, for the Department's approval under the criteria listed in subsection 9-204(9)(a). Upon receipt of the proposed stand design in required detail, the Department shall *review and approve or send the design back with instructions for revision. The Department may seek input on design criteria and approvals from the* [forward the proposed design to the] Vendor Advisory Board [, which shall review the design and recommend to the Department whether it should be approved or disapproved].

* * *

(10) [Prohibited Locations] *Annual Inspections.*

(a) *The Department shall conduct an annual inspection of each licensee under this Section. Notice of the date and time of the inspection shall be provided to the licensee at least 30 days in advance. The licensee shall personally attend the inspection, which in the case of food licensees shall be coordinated with and conducted together with the annual inspection by the Health Department. At the inspection, the Department shall verify that:*

(.1) *The license is issued in the correct name, and the sticker bearing the same license number as the license carried by the licensee is affixed to the vending stand in a clearly visible location;*

(.2) *The vending stand meets all of the requirements of this Section with respect to size and design; and*

(.3) *The number of code violations that the licensee has received regarding the stand being inspected does not exceed three during the past year.*

(b) *The Department may issue a notice of violation for each failure to comply with the requirements of this Section as of the annual inspection. If the licensee has exceeded the maximum number of violations allowed under subsection 9-204(13), including any violations issued at the inspection, the inspector may revoke the vending license.*

(11) *Prohibited Locations.*

No person shall vend at any of the following locations:

* * *

[(11)] (12) *Other Prohibited Conduct.*

* * *

[(12)] (13) *Penalties, License Suspension, Revocation, and Loss of Assigned Location.*

(a) The penalty for violation of any provision of this Section is, in addition to any other sanctions provided, a fine not exceeding three hundred (\$300) dollars for each offense. Each day of violation shall be deemed a separate offense. Violations may also result in a license suspension of up to thirty (30) days, or license revocation. [Violations of subsection 9-204(7) shall result in a license suspension of up to one (1) week.] *The Department may revoke the license of any licensee who has been issued more than three violations in one calendar year.* Licenses may also be revoked if any fine is not paid within ten (10) days of imposition by a final order from which all appeals have been exhausted. An order of the Department revoking a license shall [also] specify when the licensee may reapply for a license, which shall be not less than ninety (90) days nor more than one (1) year from the date of revocation. Persons reapplying for licenses after having their licenses revoked [shall be assigned locations pursuant to subsection 9-204(8) as if they were new applicants not previously licensed] *shall be required to reapply through the selection procedures in § 9-204(4).*

* * *

(c) Any license issued under this Section may also be revoked for any of the following reasons:

* * *

(.3) *failure to conduct licensed operations [during a vending time period (Day, Evening, and/or Weekend)] for any consecutive twenty (20) day period, without prior notice to the Department, receipt of which has been duly acknowledged by the Department. Violation of this subsection 9-204[(12)](13) (c).(3) shall result in license revocation [only for the vending time period or periods during which the licensee failed to conduct operations].*

* * *

[(13)](14) Vendor Advisory Board.

* * *

(c) [Before the Department promulgates any regulations pursuant to this Section, the Board shall in the first instance develop proposed regulations and submit them to the Department for final consideration.] *The Board shall solicit and receive comments and suggestions from vendors and community members, and shall communicate such comments and suggestions to the Department; and shall provide advice to the Department concerning regulation of Center City vending, stand design, achieving greater variety in types of food and goods sold, and any other subjects on which the Department seeks counsel.*

[(14) Vendor Malls. The Department shall examine whether vendor malls should be created in Center City, and shall make a recommendation to City Council as to whether Council should create such vendor malls by ordinance. If City Council by ordinance creates vendor malls in Center City, then the maximum number of sidewalk vendor locations in Center City for purposes of subsection 9-204(8)(a) shall be reduced by the number of licensed vendors actually occupying such mall locations, provided that the maximum number of sidewalk vendor locations in Center City for purposes of subsection 9-204(8)(a) shall not be reduced below 275.]

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Explanation:

[Brackets] indicate matter deleted.
Italics indicate matter added.