

Creekside Island Peddler Ordinance Review:

735.01 PURPOSE

735.02 DEFINITION

735.03 MANAGEMENT AREA

- creates Creekside Island as a management area
- controlled by Department of Parks and Recreation

735.04 PROPOSAL REVIEW

- authorizes Parks and Recreation to request and review proposals for up to three vendors at any time
- regulates vendors

735.05 PROPOSAL ACCEPTANCE AND LICENSING

- Two licenses are required for peddlers chosen to be on the Island
- “Peddler” License
- “Pushcart” License

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735.01 PURPOSE

- (a) Purpose: It is the purpose of this ordinance to regulate and control the number and type of peddler businesses operated on the area known as the Creekside Park in order to protect the health, safety and general welfare of the citizens of Gahanna. It is additionally the intent of this ordinance to regulate these businesses to protect the natural environment of the island and walkway areas, promote the health of the island and avoid the degradation of the newly created park. In creating this ordinance it is further the purpose of the city to ensure the quality and appearance of the island while offering beneficial amenities for the citizens of Gahanna and the users of the entire island area.

735.02 DEFINITIONS

- (a) “Peddler” means any individual who “operates”. “Peddler” does not include any individual who “operates” in the capacity of a volunteer.
- (b) “Peddler Promoter” means any corporation, partnership, unincorporated association, individual or organization of any kind, that causes or permits any employee agent, or independent contractor of such corporation, partnership, unincorporated association, individual or organization, to “operate” as a “peddler”.
- (c) “Operate” or “operations” means the act of selling, bartering, offering for sale, exposing for sale at retail or wholesale, any goods, wares, merchandise, chattels, vegetables, fruits, foodstuff of any other description, any drink or other substance for human consumption; or any commodity or service or other article upon any street, road, alley, doorway, sidewalk, or upon vacant lots or other tracts of land, or from place to place.
- (d) “Special Event” means any activity or gathering or assemblage of people upon the public right-of-way for which a permit to operate by any city department must be issued or an event organized by the City of Gahanna.
- (e) “Management Area” means a park preserve or park zone, which is designated as being controlled by the Department of Parks and Recreation.
- (f) “Pushcart” means a vehicle propelled by human power, which has been specifically designed for the sale or barter of goods and services. Vehicles not specifically designed for the sale or barter of goods or services including by way of example and not by way of limitation racks, wheelbarrows, dollies, grocery carts, baby carriages, tables, chairs, benches, cabinets, or other furniture and boxes, buckets, tubs, or other containers or devices which normally rest on the ground whether or not wheels have been attached shall not be licensed as pushcarts.

- (g) "Tricycle" means a three-wheeled pushcart propelled by human power upon which any person may ride which is equipped with pneumatic tires more than fourteen (14) inches in diameter.
- (h) "Olde Gahanna District" means the area defined in Chapter 1150 of the Codified Ordinances of the City of Gahanna.
- (i) "Creekside Park" is the area defined in ordinance number 200124 of the City of Gahanna.

735.03 MANAGEMENT AREA

The City of Gahanna hereby designates the area known as the Creekside Park as a management area as defined in 735.02. This designation authorizes the Director of Parks and Recreation to regulate and control the activity within this management area including the operation of peddler businesses in consistency with this ordinance.

735.04 PROPOSAL REVIEW

The following general provisions apply to the proposal review of peddler businesses in Creekside Park

- (a) During any given time of the year, the Director of Parks and Recreation may request proposals from peddlers or peddler promoters for operation within the Creekside Park management area;
- (b) Upon reviewing of all proposals, the Director may choose a peddler business to operate within the management area at any given time;
- (c) If none of the proposals are acceptable by the Director, then the Director can choose to have no peddler businesses operate;
- (d) Complete discretion is granted to the Director of Parks and Recreation when selecting the peddler business to operate in the Creekside Park;
- (e) Any person who submits a proposal for consideration must procure the proper permits from the Department of Parks and Recreation and abide by the regulatory provisions of this ordinance as well as all police, fire and health codes or provisions;

735.05 PROPOSAL ACCEPTANCE AND LICENSING

Upon acceptance of proposals for operation of peddler businesses in the Creekside Park, the applicant must obtain both a Peddler License and a Pushcart License from the City of Gahanna Department of Parks and Recreation. Before obtaining either license from the City of Gahanna, any person wishing to operate must obtain a license from the fire department as well.

(1) "Peddler" License Required

- (a) No peddler shall operate in the City of Gahanna without first having procured from the Department of Parks and Recreation a valid "peddlers" license.
- (b) No peddler promoter shall cause or permit any peddler to operate in the City of Gahanna without first having procured from the Department of Parks and Recreation a valid "peddler promoter" license.
- (c) No peddler shall operate or peddler promoter cause or permit anyone to operate in the City of Gahanna Creekside Park without first having been approved by the Director of Parks and Recreation for that management area under 735.03, 735.04 and 735.05 of this ordinance.

(2) "Peddler" License Application Form

Applications for peddler or peddler promoter licenses shall be made on forms provided by the Department of Parks and Recreation and shall be made under oath and shall contain the following information and material:

(a) Peddler

- (1) Name, address, telephone number, date of birth, social security number;
- (2) Business name, address and telephone number if different from above;
- (3) Name, address, telephone number of company or corporation if different from business name;
- (4) Proof of obtaining filing number from the Ohio Department of Taxation, if applicable;
- (5) Any other information the Department of Parks and Recreation feels necessary.
- (6) Proof of obtaining City income tax filing number or exemption from the City of Gahanna Division of Income Tax;

(b) Peddler Promoter

- (1) Name, address, telephone number, date of birth, social security number;
- (2) Business name, address, and telephone number if different from above;
- (3) Name, address, telephone number of company or corporation if different from business name;

- (4) In the case of company or corporation, the name, address, date of birth, social security number of a person authorized by such company or corporation, to act in licensing matters;
 - (5) Proof of obtaining filing number from the Ohio Department of Taxation, if applicable;
 - (6) Any other information required by the Department of Parks and Recreation.
- (c) Upon submittal the applicant must furnish two current photographs suitable for the identification card

(3) Pushcart License Required

- (a) No individual or organization shall use, or cause to be used, any vehicle which is propelled by human power to sell, barter, offer or expose for sale any goods or services upon any portion of the Creekside Park without first having procured from the Department of Parks and Recreation a valid pushcart license.
- (b) No holder of a pushcart license shall allow any individual to sell, barter, offer or expose for sale any goods or services from such licensed pushcart unless said individual is a licensed peddler or is exempted from the peddler licensing provisions contained this section.

(4) Pushcart License Application Form

- (a) Application for a pushcart license shall be made on forms provided by the Department of Parks and Recreation. The application shall be made under oath and shall contain the following information and material:
 - (1) Name, address, telephone number, date of birth, social security number;
 - (2) Business name, address, telephone number if different from above;
 - (3) Name, address, telephone number of company, corporation, or unincorporated association if different from business name;
 - (4) In the case of a company, corporation or unincorporated association, the name, address, date of birth, social security number of a person authorized by such company or corporation to act in licensing matters;
 - (5) Proof of obtaining City income tax filing number or exemption from the City of Gahanna Division of Income Tax;
 - (6) Proof of obtaining filing number or exemption form the Ohio Department of Taxation: and

- (7) Any other information required by the Department of Parks and Recreation or the City of Gahanna.

735.06 APPLICATION INVESTIGATION

The Department of Parks and Recreation shall examine all applications filed under this chapter and shall make or cause to be made any further investigation as is deemed necessary in order to perform duties prescribed by this chapter.

Upon request, applicants shall make available to the Department of Parks and Recreation any or all of such applicant's books, records and papers, within a reasonable time, before a license is granted or while license are in effect.

735.07 LICENSE ISSUANCE, FEES, AND TERMS

- (a) Licenses required by this chapter may be issued to applicants who:
 - (1) Have filed a complete application as required by this ordinance
 - (2) Are found to be in total compliance with all other applicable city, state, and federal laws including having all other required licenses and permits; and
 - (3) Have made payments of the proper fees. The annual license fee shall be as follows:
 - (a) A yearly fee of \$100.00 shall be enforced to all who operate in the Creekside Park
 - (b) Peddlers license shall be \$25.00
 - (c) Peddler promoter license shall be \$75.00
 - (d) Pushcart license shall be \$30.00
 - (e) Each license issued by the Department of Parks and Recreation shall expire on the date one year from the date of issuance.

735.08 LICENSE REFUSAL

The Department of Parks and Recreation may refuse to issue licenses required by this chapter if any of the following is found to be true:

- (1) The applicant had made a false statement as to any matter in the application
- (2) The applicant or his prospective employer has violated any provision of this chapter within the last three (3) years;

- (3) The applicant is under 18 years of age;
- (4) The applicant has not complied with all applicable regulations of this or any other city agency, as well as those of the state and federal governments.
- (5) Any other reason for which a license may be refused as provided in various sections of the City of Gahanna Codified Ordinances.

735.09 LICENSE SUSPENSION, REVOCATION

Licenses issued under this chapter may be suspended or revoked by the Department of Parks and Recreation for one or more of the following reasons:

(a) Peddlers

- (1) Fraud, misrepresentation of bribery in securing a license or during the course of business; or,
- (2) Violation of any provision of this ordinance;
- (3) Failure to display the identification card as is required by subsequent sections of this ordinance;
- (4) Failure to notify the Department of Parks and Recreation of a change of address within ten (10) days of such change; or
- (5) Failure to have valid permits or licenses required by the department of health or any other city, township, state or federal agency; or
- (6) Conviction of any criminal or traffic offense while operating, or conviction of any criminal offense involving theft or fraud; or
- (7) For any of the reasons which could have been grounds for refusing to issue the original license; or
- (8) Operating or working for any unlicensed peddler promoter; or
- (9) Possessing, selling or distributing intoxicating liquor or beer.

(b) Peddler Promoter

- (1) Fraud, misrepresentation or bribery in securing a license or during the course of business; or
- (2) Violation of any provision of this chapter; or

- (3) Failure to notify the Department of Parks and Recreation of a change of address within ten (10) days of such change; or
 - (4) Allowing employees to operate without having valid permits or licenses required by the health department or any other city, state or federal agency; or
 - (5) Conviction of any criminal offense involving theft or fraud; or
 - (6) For any reason which could have been grounds for refusing to issue the original license; or
 - (7) Causing or permitting any employee, agent or independent contractor or other person to operate without a peddler license; or
 - (8) Causing or permitting a peddler or other person to operate from or with an unlicensed pushcart as defined in Section 2 of this ordinance.
- (c) Upon the suspension or revocation of any license issued under this chapter, such license shall immediately be removed from public view and shall be returned to the Department of Parks and Recreation within seven (7) days of such suspension or revocation unless a stay is granted by the Director of Parks and Recreation until further review.

735.10 LICENSE APPEAL

Any individual or organization who has been refused a license or renewal of a license under this chapter or has had a license issued under this chapter suspended or revoked, may appeal such decision to the Parks and Recreation Board.

735.11 TRANSFER OF LICENSE, IDENTIFICATION CARD

No license, identification card or decal issued under this chapter shall be assigned or transferred by the named licensee to any other individual or organization.

735.12 DISPLAY OF IDENTIFICATION CARD

Each peddler shall conspicuously display on the outside of their clothing, at all times while operating, the identification card furnished with such peddler license.

735.13 CREEKSIDE ISLAND OPERATION

Peddlers shall not:

- (a) Obstruct pedestrian or vehicular traffic upon any sidewalk or walkway or other public right-of-way. Leaving less than five (5) feet of space available for pedestrian traffic on a sidewalk shall be considered obstruction of pedestrian traffic.

- (b) Operate underneath Granville Street bridge or around the southern walkway portions of the Park.
- (c) Sell, barter, offer or expose for sale any goods or services to occupants of vehicles whether parked or in motion which may be located in parking lots adjacent to the Creekside Park or on roads, alleys & streets.
- (d) Operate on any parking lot surrounding the Creekside Park.
- (e) Operate on any sidewalk surrounding the Creekside Park including any sidewalk within the Olde Gahanna District as zoned according to the official zoning map of the City of Gahanna.
- (f) Operate from any motor or animal-propelled vehicle or tricycle on any road, street or alley around the Creekside Park.
- (g) Display, use, advertise or store any merchandise or service from, in, or on any telephone or other utility pole, tree, planter, trash container, parking meter, or any other sidewalk fixture.
- (h) Display, use, advertise or store merchandise or service from, in, or on any box, bucket, cooler, tub or other container unless attached or carried on a push cart as defined in this ordinance, or from any table, chair, bench, cabinet or other furniture of any kind, or from any rack, dolly, wheelbarrow, grocery cart, baby carriage, stroller, easel, hand cart or blanket unless authorized by the Director of Parks and Recreation.
- (i) Place or permit to be placed in any waterway any noxious or deleterious material or any material, which may affect the use or enjoyment of such waters for recreational or natural park use.
- (j) Place or permit to be placed on any ground area or cover, water of any source derived from the operation of the peddler business.
- (k) Operate on frozen surfaces of any waterway.
- (l) Wash or wax any portion of the peddler pushcart on the Creekside Park
- (m) Leave a pushcart on the Creekside Park during the hours of sundown to 7:30 a.m.

Peddlers shall:

- (a) Operate only on the area know as Creekside Park in the areas designated Council Rings A, B, C, D and E.
- (b) Operate using only authorized and licensed pushcarts.

- (c) Be responsible for keeping the area within twenty-five (25) feet of their operation free and clear of any litter caused by such operation. When two or more peddlers occupy overlapping areas of litter control, they shall be jointly responsible for the overlapping area.
- (d) Operate away from utility poles, electrical outlets or other structures as not to obstruct access to them.
- (e) Operate only during the hours of 8:00 a.m. and sundown and other times as designated by the Director of Parks and Recreation.

735.14 PUSH CART REQUIREMENTS

(1) Pushcarts shall not be:

- (a) More than four (4) feet in width; including wheels; or
- (b) More than nine (9) feet in length, of which not more than six and one-half (6-1/2) feet of length shall be used for the display, storage, or preparation of items for sale or barter;
- (c) More than six and one-half (6-1/2) feet in height;
 - (1) Canopies, umbrellas or other covers attached to the pushcart may not extend more than eight and one-half (8-1/2) feet nor less than six and one-half (6-1/2) feet from the ground and shall not exceed eight (8) feet in width;
 - (2) Such canopy, umbrella or cover shall not be used for display of merchandise purpose;
 - (3) No item shall be placed or affixed on any pushcart in such a manner so that the combined height of the item and the pushcart exceeds six and one-half (6-1/2) feet or the combined width of the item and the pushcart exceeds four (4) feet.

(2) Pushcarts shall have:

- (a) A minimum of two wheels;
- (b) A litter container affixed thereto; such container shall be of at least one (1) gallon capacity;
- (c) An attached braking mechanism or device shall be capable of locking the wheels while not in motion;
- (d) Equipped with enclosed sides made of a hard sturdy, nontransparent, non-cloth substance securely and permanently attached to the pushcart frame. Such

sides shall have a finished appearance. Finished shall mean painted, stained or varnished unless sides are made of stainless steel, cast iron, or a fiber glass or plastic material manufactured in a colored condition;

- (e) A permanently affixed handle capable of propelling and controlling the pushcart.
- (f) A fully operating, certified, portable fire extinguisher.
- (g) Been designed with flame retardant materials. This is not required but highly recommended.

735.15 INSURANCE REQUIREMENTS

Prior to the issuance of any license required by this chapter, the owner of each pushcart to be licensed shall sign an affidavit stating that the owner has an insurance policy currently in effect covering the owner or any other person using such pushcart with the owner's permission for liability imposed by law for damages on account of bodily injury, death, or property damage resulting from the use of such pushcart. The limit of this policy shall be not less than twenty-five thousand dollars (\$25,000) for any one incident and shall be combined single limit insurance coverage from an insurance company duly licensed to transact such business in the State of Ohio or of an insurance company not authorized to transact business in this state, provided such insurance is written through a citizen of this state duly licensed as provided by Ohio Revised Code 5905.03, et seq., covering the applicant. Such policy shall agree to pay any judgment rendered against the owner of such pushcart or any other person using it with his permission by reason of their use of such pushcart. No deductible amount shall be allowed from this policy in an amount greater than two hundred fifty dollars (\$250.00).

735.16 ENFORCEMENT

Any law enforcement officer or Department of Parks and Recreation staff member authorized to enforce this chapter who observes any violation of this chapter may lawfully order such individual to cease using a pushcart or operate peddler business until the violation is corrected.

If the individual fails to obey the lawful order to cease using the pushcart within a reasonable time, the officer or staff member may make a written complaint to the Director of Parks and Recreation in addition to any other remedy provided by law. Absent extraordinary circumstances, a reasonable time shall be considered five (5) minutes.

Upon receipt of such complaint, the Director of Parks and Recreation or his/her designee shall schedule a hearing within twenty (20) days. The owner of the pushcart, peddler business or peddler promoter shall be notified either in person or by mail directed to the last known address of the owner of the pushcart, peddler business or peddler promoter

setting forth the date, time and place of such hearing and that private counsel may be present. The complaining officer or staff member shall also be present.

If, after a hearing, the Director of Parks and Recreation determines that the owner or operator of the pushcart did fail to obey this ordinance or any other lawful order, the Director of Parks and Recreation may suspend or revoke the license of that pushcart, peddler business or peddler promoter

If, after the hearing, any peddler or peddler promoter may appeal the decision of the Director of Parks and Recreation to the Parks and Recreation Board within ten (10) days of the previous decision. Such appeal shall be made in writing to the Parks and Recreation Board.

735.17 ALCOHOLIC BEVERAGES PROHIBITED

- (a) No peddler or peddler promoter shall knowingly possess with the purpose to consume any intoxicating liquor or beer as defined in Ohio R.C. Chapter 4301 while being in or upon any portion of the Creekside Park.
- (b) For the purpose of part (a) of this section, any peddler or peddler promoter found in or upon any portion of the Park and in possession of any intoxicating liquor or beer is presumed to knowingly possess the intoxicating liquor or beer with the purpose to consume such.
- (c) It is unlawful for any peddler or peddler promoter to knowingly attempt to sell intoxicating liquor or beer in any park.
- (d) For the purpose of part (c) the City of Gahanna Police Department will be notified of such violation and dealt with according to policy and the peddler or peddler promoter will be ordered to cease all operation immediately and will not be eligible for operation within the City of Gahanna if found to be in violation.

735.18 EXEMPTION

- (a) For special events as defined in 735.20 of this ordinance the Director of Parks and Recreation may waive the requirements for peddlers or peddler promoters in Creekside Park. This exemption will only apply to organizations sponsoring City of Gahanna special events in Creekside Park.
- (b) The Director of Parks and Recreation may waive all fees for non-profit organizations operating in Creekside Park. This waiver is at the discretion of the Director of Parks and Recreation or his/her designee.

735.19 SEVERABILITY CLAUSE

If any particular portion of this chapter is declared to be invalid by a court of competent jurisdiction, such declarations of invalidity shall be limited to that particular portion

declared invalid. This declaration shall not affect or impair the remainder of this chapter, and to this end, the provisions are severable.