

# **Rules and Regulations Related to the Privilege of Operating a Business of Sidewalk Vending in the Downtown Vending District**

## **A. AUTHORITY**

These rules and regulations have been adopted pursuant to Ordinance G-4586. As of April 1, 2004, sidewalk vending on the public right-of-way in the Downtown Vending District is only allowed by a license agreement with the City on sites designated by the City. The following rules and regulations relate to the privilege of operating the business of sidewalk vending in the Downtown Vending District.

## **B. LICENSE AGREEMENTS**

The license agreement contains all of the rights, limitations and requirements for vending in the Downtown Vending District. The terms “license agreement” and “licensee” include the terms “sublicense agreement” and “sublicense” when used in these rules and regulations or other communications regarding sidewalk vending in the Downtown Vending District.

## **C. SUBLICENSING**

A sublicense agreement is required whenever a person other than the licensee operates a separate business from the licensee at the site with the permission of the licensee. Each person doing business at a sidewalk vending site must obtain a sales tax license for reporting their sales from the site. To be eligible for a sublicense agreement, a person must meet all of the requirements for a licensee.

## **D. GENERAL RESTRICTIONS ON DETERMINING PLACEMENT AND SIZE OF SITES**

1. All sites must be within the Downtown Vending District: that area of the City of Phoenix bounded on the north by the northern portion of Fillmore Street, on the east by the eastern portion of Seventh Street, on the south by the southern portion of Jackson Street and on the west by the western portion of Seventh Avenue, per City Code.
2. Site dimensions will be no larger than seventy square feet.
3. No site will be allowed:
  - a. in front of or within fifty feet of any building premises if the owner or lessee provides a written objection to the City,
  - b. within one hundred fifty feet of any building premises selling the same commodity if the owner or lessee thereof provides a written objection to the City,The distances in (a) & (b) are measured from the same side of the street and from the closer of the nearest exterior wall of the business premises or, if applicable, the nearest boundary of any outdoor dining area associated with the business premises. Objections under (a) or (b) must be on file with the Tax Division before November 1 of a year to be effective for the following calendar year.

- c. within fifteen feet of any intersection or closer to the intersection than the crosswalk extended,
- d. within one hundred two feet of another licensed site,
- e. within eight feet of any property line, or
- f. along Madison Avenue between First Avenue and Fourth Avenue.

**E. VENDING SITES**

Vending sites will be designated by the City as primary, secondary or daily use sites for bidding purposes and will be marked and numbered by the City.

Additional sites may be proposed no later than a date to be set annually by the City each year. The sites will be evaluated for possible inclusion in the bid process for the following calendar year, subject to the limitations above. Evaluation and final approval of the recommended sites will be completed prior to the pre-award meeting, solely at the City’s discretion. This is the only time sites may be added to the list of available sites. Final site locations will be provided with the pre-bid documents as provided below.

Prior to bid submission for the following calendar year, the Tax Division will attempt to identify those projects or that construction that could affect a site. This may result in moving, altering or deleting a site from the list of sites available for bid.

**F. GENERAL PRE-AWARD PROCESS**

The following steps will be taken prior to site award, with specific dates provided each year by general notice.

- 1. The City will make available a list of all approved sites and hold a pre-award conference by November 15 prior to the site awards for the following calendar year.
- 2. Each potential bidder must provide the Tax Division with a letter of clearance, obtained after September 30 of the bid process year, from the City of Phoenix Police Department (requiring a fee to Police) prior to submitting any bid.
- 3. Bids must be submitted in a manner and at a time determined by the Tax Division.

**G. ANNUAL SITE AWARD PROCESS**

**1. Qualifying of Bidders**

To qualify to participate in the award process, potential bidders must comply with all required steps of the General Pre-Award Process as well as Step 2 of the Annual Site Award Process. If the potential bidder is a party to a license agreement that is under suspension at the time of the annual award or is a party to a license agreement that was terminated within the 12 months prior to the award date, the person will not be qualified. Additionally, neither a licensee nor an owner, partner, officer or member of a licensee who was a party to a license agreement that was terminated within the 12 months prior to the award date, nor any person acting on behalf of such licensee or owner, partner, officer or member of a licensee, shall be eligible for participation in the award process or to enter into a new sidewalk vending license agreement.

## **2. Outstanding City Privilege (Sales) Tax Liabilities or Delinquent City Returns**

No site awards will be finalized with vending businesses that have any outstanding privilege (sales) tax or license fee liabilities with the City or delinquent sales tax returns required to be filed with the City. However, a privilege (sales) tax license is not required solely for the purpose of placing a bid. Anyone licensed with the City must satisfy all obligations prior to the site award. This includes all current or past due obligations, whether related to a current year sidewalk vending location or any other City license. It is solely the responsibility of the potential bidder to provide proof of filing and/or payment.

## **3. Award of Vending Sites**

The City will provide the details of the annual site award process to all potential bidders and the public at the pre-award conference and through other means after the conference. The site award will start as established each year at a time and place to be named by December 15 for vending sites for the next calendar year. No person may be awarded, or may license or sublicense more than two vending sites, of which only one may be a primary site.

The bidder or a representative must be present at the meeting to be awarded a site. If someone other than an owner, partner, officer or member of the vending business represents the vending business, the vending business must execute a “Representation of Vending Business” form, which must have a notarized signature of the owner, partner, officer or member, as appropriate. The representative must provide the form to the City at the bid opening and award.

## **4. Payment of Fees**

All bidders awarded sites will be verified by City staff to have no outstanding privilege (sales) tax or license fee liabilities with the City or delinquent sales tax returns required to be filed with the City.

Bidders awarded sites are required to pay the bid in a manner and at a time determined by the City. Payment of any fees due in connection with sidewalk vending must be made in cash or by money order or cashier’s check made payable to the City of Phoenix in U.S. dollars.

If the bidder had outstanding liabilities to the City or misses the payment deadline, the site may be awarded by the City in a method to be determined by the Finance Department.

## **H. AWARD DUE TO OTHER VENDING BID TERMINATION**

If a license is terminated for violation of the terms of the license agreement, the site may be awarded by the City in a method to be determined by the Finance Department. If a license is terminated for cause, the licensee or an owner, partner, officer or member of the licensee who was a party to the license agreement may not operate, work at, bid for or be issued a license for a period of 12 months after the date of termination or for such period determined by agreement.

## **I. VENDOR IDENTIFICATION CARDS**

All individuals seeking to vend at the site must complete an application, available from the City Clerk, that includes authorization from the licensee, a letter of clearance obtained from the City of Phoenix Police Department (a fee to Police) within 90 days of application to the City Clerk with a fee to the City Clerk for an identification card for each vending site at which the individual is approved to work. If an application is submitted for two sites operated by one licensee, only one fee will be charged and both sites will be noted on the identification card. These identification cards will be valid only through December 31 of the year of the associated license agreement. The licensee or any owner, partner, officer or member that is a party to the license agreement must also obtain an identification card to vend at the site.

If a license agreement is terminated for cause, the licensee and any employees must surrender their identification cards immediately. Any person issued an identification card who is required to surrender the card for cause or an owner, partner, officer or member of a licensee who was a party to a license agreement terminated for cause may not operate, work at, bid for or be issued a license or vendor identification card for a period of 12 months or for such period determined by agreement.

## **J. DELEGATION OF AUTHORITY**

The Tax Division of the Finance Department is hereby delegated authority to adopt such procedures as it deems necessary to implement these rules and regulations, to designate the locations upon which sidewalk vending is permitted in the Downtown Vending District and to regulate the business of sidewalk vending in the Downtown Vending District by license agreement.