



**CITY OF
MONTPELIER
MONTPELIER,
VERMONT**

Agenda for City
Council Meeting -
No Video

Wednesday, May 12,
2010
7:00 P.M.

- 1) Call to Order by the Mayor
- 2) 10-113. General Business and Appearances
- 3) 10-114. Consideration of the Consent Agenda:
 - a) Consideration of the Minutes from the April 28th, 2010 Regular Meeting.
 - b) Consideration of the becoming the Liquor Control Commission for the purpose of acting on the following:
 1. No applications as of "press time"
 - c) Payroll and Bills
- 4) 10-115. City Hall Arts Center Management - Ordinance.
 - a) Second Reading of proposed revisions to Article VIII of the City Ordinances concerning use of City Hall was held on April 28th.
 - b) The City Manager has proposed amendments to the ordinance which more accurately reflect current practices and which allow changes to rental policies and fees without requiring future ordinance amendments.
 - c) Recommendation: Approve the policies and agreements as presented.

- 5) 10-116. City Hall Arts Center Management - Policies and Agreements.
 - a) In conjunction with this, Council will consider:
 1. Revised Rental Management Agent with Lost Nation Theatre CITY COUNCIL AGENDA May 12, 2010 Page 2
 2. Revised Use of Rental Agreement with Lost Nation Theatre
 3. Revised City Hall Arts Center Rental Policy and Rate Sheet
 4. Revised City Hall Arts Center Rental Contract
 - a) The City Manager has proposed the above policies and agreements which are consistent with the proposed ordinance amendment and which reflect current practices.
 - b) This item was tabled from the Council's April 28th meeting.
 - c) Recommendation: Approve the policies and agreements as presented.
- 6) 10-117. The District Energy Committee will present a recommendation to the City Council for the hiring of a Project Manager for the District Energy Plant.
 - a) Proposed Action: Approve Project Manager Contract.
- 7) 10-118. Consideration of the City Council's endorsement of the Montpelier Community Justice Center's Citizen Advisory Board Bylaws.
 - a) The Citizen Advisory Board of the Montpelier Community Justice Center adopted the Bylaws in January, 2009, a version amended from the original document created in October, 2003, and amended in March, 2005. The MCJC is required to have a Citizen Advisory Board (CAB) per the Safer Communities Grant from the Agency of Human Services that provides the bulk of its funding.

- 8) 10-119. Adoption of the City Council's Goals and Priorities for 2010; Manager will compile a list developed from April 12th Work Session. CITY COUNCIL AGENDA May 12, 2010 Page 3
- 9) 10-120. Mayor's Report
- 10) 10-121. Report by the City Clerk-Treasurer
- 11) 10-122. Status Reports by the City Manager
- 12) 10-123. Agenda Reports by the City Manager

Adjournment



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ARTICLE XIV. VENDORS.

Sec. 9-1400. DEFINITIONS.

A) "Vendor" shall mean any person, including an employee or agent of another, who sells or offers to sell food, beverages, personal services, goods or merchandise on any street or sidewalk from a stand, motor vehicle or from his or her person, or one who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell food, beverages, personal services, goods or merchandise.

B) "Stand" shall mean any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered as a motor vehicle, used for the display, storage, promotion or transportation of articles or personal services, offered for sale by a vendor.

C) "Public Street or Sidewalk" shall include all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, public parking spaces and any other public way.

D) "Designated location" shall mean those locations within the designated downtown of the City of Montpelier that have been approved as vending locations.

Sec. 9-1401. LICENSE REQUIRED.

It shall be unlawful for any vendor to sell, display or offer for sale any food, beverage, goods or merchandise within the city of Montpelier without first obtaining a vendor's license.

Sec. 9-1402. APPLICATION.

The application for a vendor's license shall be submitted to the City Clerk for approval by the City Council on forms provided therefor and contain all information relevant and necessary to determine whether a vendor's license may be issued, including but not limited to:

- A) Proof of the identity and business address of the applicant.
- B) A brief description of the type of the food, beverages, personal services, goods or merchandise to be sold.
- C) If employed by another, the name and business address of the person, firm, association, organization, company or corporation.
- D) If a motor vehicle is to be used in the conduct of a vending business, a description of the vehicle together with the motor vehicle registration number and the license number; provided, however, that no vendor shall conduct business from any public parking space.
- E) The proposed location(s) of the vending business and the proposed days and hours of operation at each location. If the location(s) is/are located outside of the designated downtown, then the applicant shall obtain written permission from the property owner, the Police Chief and/ or designee. In cases where the vendor is seeking to do business in a City of Montpelier park, then the signature of the Parks Director must also be obtained.
- F) Proof of a valid and current state license for the type of business activity for which a license

under this ordinance is sought.

G) Acknowledgment that issuance and maintenance of a vendor's license by the vendor shall be subject to review by the Chief of Police and Health Officer.

Sec. 9-1403. DESIGNATED LOCATIONS

In the designated downtown district vendors may only vend in preapproved locations established by the City Manager.

The City Manager shall maintain a list of designated locations for vendors wishing to locate in the designated downtown. If a vendor wishes to locate in a space not on the list of designated locations, then the vendor may apply to the City Manager to add or move a space. Any spaces that the City Manager approves shall conform to the guidelines in Sec.9-1406 (a). If the area involves private property, written approval from the property owner shall be submitted for use of the location for vending with space limitations clearly defined. In the event that the application is for a space on property belonging to the City of Montpelier, the City Manager shall decide whether or not to grant permission to use the space.

Sec. 9-1404. FEES.

An applicant for a license under Sec. 9-1402 shall pay an annual license fee as established by the City Council.

Sec. 9-1405. INSURANCE.

No vendor's license shall be issued to an applicant unless the applicant furnishes proof to the City Clerk of a public liability bond or insurance policy in an amount not less than \$100,000 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business and naming the city as an additional insured.

Sec. 9-1406. LICENSES.

The license issued to a vendor shall be displayed by the vendor while he or she is engaged in the business of vending.

Sec. 9-1407. RESTRICTIONS APPLICABLE TO ALL VENDORS.

A) Stands. Vendor's stands and associated activity shall not:

- (1) Impede pedestrian or vehicular travel, or access to the entrance of any adjacent building or driveway;
- (2) Occupy more than half of the available sidewalk width or four feet of such sidewalk, whichever is less;
- (3) Locate within five feet of a accessible parking space, access ramp, crosswalk, fire hydrant, fire escape, bus stop, loading zone, driveway, or entrance of any building; or
- (4) Locate within fifty feet of any business establishment offering for sale goods or merchandise in the same class as that being offered for sale by the licensed vendor (food, arts, crafts clothing, etc.). Fifty feet shall be measured as the shortest distance

between the cart and any street-facing property owned or rented by the similar business.

- (5) Provide tables and seating for customer use.
- (6) Impede access to or egress from cars parked in legal parking spaces.

B) Stands located outside of the designated downtown shall:

- 1) Not exceed eight feet in length, three feet in width, or eight feet in height;
- 2) Shall not locate on any property, public or private, without the landowner's written approval.

C) Stands located inside the designated downtown shall:

- 1) locate in a location that is on the City of Montpelier's list of designated locations, or seek an amendment to the list of designated locations from the City Manager.
- 2) Shall not use more space in total than allowed for the permitted space. Space usage includes the cart, plus any umbrellas, coolers, signboard, and other items connected to the business.

D) Hours of Operation. Vendors shall be allowed to engage in the business of vending only between 7:00 A.M. and 10:00 P.M., except that those vendors who conduct their business by going door-to-door shall be allowed to operate only between 9:00 A.M. and 5:00 P.M.. All vending stands must be removed from public property during non-vending hours.

E) Removal of Trash. All trash or debris generated by any vending stand shall be collected by the vendor and removed. This trash may not be deposited in public trash containers. Vendors must provide a trash receptacle for use by their customers.

Sec. 9-1408. SUSPENSION OR REVOCATION OF LICENSE.

A) Any license issued under this ordinance may be suspended or revoked by the City Council after due notice to the licensee and hearing, for any of the following reasons:

- (1) Fraud or misrepresentation in the application for the license.
- (2) Fraud or misrepresentation in the course of conducting the business of vending.
- (3) Conducting the business of vending contrary to the conditions of the license.
- (4) Conducting the business of vending in such a manner as to create a public nuisance or breach of the peace, or constitute a danger to the public health, safety or welfare.

B) Upon suspension or revocation, the City shall deliver written notice to the licensee(s) stating the action taken and the reasons supporting such action. The written notice shall be delivered to the licensee's place of business or mailed to the licensee's last known address.

Sec. 9-1409. RENEWALS.

Application for renewal of licenses issued under Sections 9-1405 or 9-1412 shall be made to and received by the City Clerk within fifteen (15) days prior to the expiration of such license. The City Clerk shall review each application for renewal to determine that:

- A) The applicant is in full compliance with the provisions of this ordinance.
- B) The applicant has a currently effective insurance policy naming the City as an additional insured in the minimum amount provided for in Section 9-1404. If the City Clerk finds that the application meets the above requirements, the City Clerk shall issue a new permit.

Sec. 9-1410. RELIGIOUS, CHARITABLE, EDUCATIONAL AND SERVICE ORGANIZATIONS.

Authorized representatives of religious, charitable, educational or service organizations desiring to solicit money, to sell products of the land, or to distribute literature shall be exempt from the payment of any fee hereunder, but shall be required to submit in writing to the City Clerk the name and purpose of the cause for which such activity is sought, the name and address of the immediate director of such activity, and the period during which such activity is to be carried on in the city of Montpelier. If the City Clerk, after investigation, shall find that the organization is a bona fide charitable, religious, educational or service organization, the Clerk shall issue, free of charge, a license to carry on such activity. Such license shall cover all persons engaged in the activity for which the license was issued. Organizations designated as religious or exempt under Sections 501(c), 501(d), 501(e), 521, 527 or 528 of the Internal Revenue Code of 1986, or subsequent enactments, shall be exempted from the payment of the fee imposed under Section 9-1403, provided that no license issued hereunder shall be of a duration in excess of fifteen (15) consecutive days. Organizations not found to be exempt as defined above shall be responsible for the full fee.

Sec. 9-1411. SPECIAL EVENT LICENSE.

- A) The City Council may issue special vendor's licenses to be used in conjunction with a special event. Such licenses shall be valid for no more than three (3) consecutive days designated for the event by the City Council.
- B) The fee for a special vendor's license shall be established by city council resolution for each day for which it is valid, provided that any organizations in Section 9-1411 shall be exempt from the payment of any fee imposed hereunder.
- C) The City Council shall require the sponsor of any special event to administer all applications for multiple special vendor's licenses under this section.

Sec. 9-1412. SPECIAL TRANSIENT VENDOR LICENSE.

In lieu of the license required under Section 9-1400, the City Clerk may issue a thirty (30) day license to a person selling or offering for sale or soliciting orders for the sale of services, goods or merchandise from premises occupied temporarily as a tenant, lessee, guest or invitee. Such license shall be valid only between the dates specified thereon, and the person applying for such a license shall comply with and be subject to all the provisions of Sections 9-1402, 9-1404, 9-1405, 9-1407, 9-1408 and 19-1410. An applicant for a license under this section shall pay a license fee of fifty dollars (\$50.00). As

used in this section, the term "merchandise" shall include plants and other agricultural or forest products.

Sec. 9-1413. LOUD NOISES AND SIGNS.

No vendor or transient vendor, nor any person on their behalf, shall shout, make any cry out, blow a horn, ring a bell, or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of this city or upon any private premises in the city where a sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, or parade with a sign or placard, for the purpose of attracting attention to any goods, wares or merchandise which such license proposes to sell. If any displays are put up, they shall be removed. All signs, including sign boards, must comply with City regulations.

Sec. 9-1414. VENDING MACHINES.

No vending machine or other dispensing device shall be placed or maintained, either permanently or temporarily, upon any City property, including any street, highway or sidewalk, without the prior approval of the City Council. In considering and acting upon a request for the placement of and maintenance of such vending machine or dispensing device, the City Council may impose reasonable fees, conditions and standards.

Sec. 9-1415. ENFORCEMENT

Enforcement of vending permit violations under Article XIV shall be investigated by the Montpelier Police Department and will be handled administratively. Any other violations of Montpelier City Ordinances or Vermont State law will be investigated and prosecuted by appropriate authority.

The permit holder agrees to abide by all conditions and ordinances set forth in the issuance of the vendor permit. Any violation of those conditions will result in a warning and corrective action plan for the first violation. The warning and corrective action plan will be issued by a sworn officer of the Montpelier Police Department.

Any second violation of vending permit conditions during the operational date of the permit will result in an immediate suspension/revocation of the vending permit.

Any appeal of a vending permit suspension or revocation shall be submitted to the City Council pursuant to Sec. 9-1407.

CHARTER REFERENCES: T. 3, Sec. 17(I); T. 3, Sec. 17(IV), 1955 Charter.

STATE LAW REFERENCES: Peddlers, V.S.A., T. 32, Sec. 9301 et seq.; itinerant vendors, V.S.A., T. 32, Sec. 9201 et seq.

Enacted September 13, 1972.

Amendment enacted July 28, 1976 [Sec. 9-1405 rewritten]. Date of Publication: 8/02/76. Effective Date: 8/09/76.

Amendment enacted October 11, 1978 [Sec's. 9-1405 and 9-1407 rewritten]. Date of Publication: 10/18/78. Effective Date: 10/24/78.

Amendment enacted May 27, 1981 [Sec. 9-1409 added]. Date of Publication: 6/03/81.

Effective Date: 6/09/81.

Amendment enacted May 26, 1982 [Sec. 9-1405, fee increased]. Date of Publication: 6/09/82. Effective Date: 6/16/82.

Amendment enacted January 12, 1983 [Sec's. 9-1410 and 9-1411 added]. Date of Publication: 1/18/83. Effective Date: 1/25/83.

Amendment enacted March 14, 1984 [Sec. 9-1412 added]. Date of Publication: 3/24/84. Effective Date: 3/31/84.

Amendment enacted April 9, 1985 [Sec. 9-1405, rate increased]. Date of Publication: 4/15/85. Effective Date: 4/22/85.

Amendment enacted October 23, 1985 [Sec. 9-1413 added]. Date of Publication: 10/31/85. Effective Date: 11/06/85.

Amendment enacted October 11, 1989 [Article XIV repealed and replaced]. Date of Publication: 10/17/89. Effective Date: 10/23/89.

Amendment enacted May 12, 2004 [Sec. 9-1412, fee increased]. Date of Publication: 5/27/04. Effective Date: 6/02/04.

Amedment enacted April 28, 2010. [entire article substantially revised]



CITY OF MONTPELIER, VERMONT

" THE SMALLEST CAPITAL CITY IN THE UNITED STATES "

Mayor Mary S. Hooper

City Council:

Tom Golonka
Andy Hooper
Sarah Jarvis
Jim Sheridan
Nancy Sherman
Alan Weiss

William Fraser,
City Manager
wfraser@montpelier-vt.org

Beverlee Pembroke Hill
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ADMINISTRATIVE PROCEDURE

**For approved outdoor vending spaces,
Designating vendors for approved spaces
And issuing vendor licenses**

Issued May 5, 2010 by William J. Fraser, City Manager

The following procedures are issued pursuant to Article XIV of the Montpelier City Ordinances as amended on April 28, 2010.

DESIGNATION OF SPACES

As per Article XIV, Section 9-1403 the following are designated locations for **food** vendors within the designated downtown:

- 1) Christ Church – 19' x 14'. Partially on Christ Church property and requires permission/approval of and use agreement with Christ Church.
- 2) Washington County Court House – 10' x 11' (corner of State St. and Elm St.) Vendor may use either the red brick area on the south side of the sidewalk or the sidewalk and partial court house lawn on the north side of the sidewalk but not both. If sidewalk is used, all other ordinance provisions must be met. If vendor uses Court House lawn then written permission/approval of Washington County side judges is required. A condition of this location is that the customer line be maintained in the westerly direction toward the post office and not into the ramp and intersection.
- 3) Main St. and School St. – 11' x 11' (bump out near Bethany Church) Vendor may not use Bethany Church lawn. Customer lines may not extend into the ramps or intersections.
- 4) City Hall Plaza I – 12' x 10'. Issuance of permit for this location by the city shall be considered permission and approval for use of the space.
- 5) City Hall Plaza II – 12' x 10'. Issuance of permit for this location by the city shall be considered permission and approval for use of the space.

Under the provisions of Section 9-1403, vendors may propose other spaces which meet all conditions stated in Section 9-1407. Proposed spaces located partially or entirely on non-city property must have the written approval of the property owner.

As per Article XIV, Section 9-1403 the following are designated locations for **non-food** vendors:

- 6) State St & Elm St – (near 41 State St on north side of street.)
- 7) State St, Rialto Bridge I – (between 23 and 41 State Street on north side of street)
- 8) State St, Rialto Bridge II – (between 23 and 41 State Street on north side of street)
- 9) State St., Information Booth.

Use of non-food spaces must be consistent with all other ordinance provisions such as proximity to stores with similar primary businesses.

In the event that vacant food vending spaces exist, non-food vendors may be assigned a food vending location at the discretion of the City Manager.

Under the provisions of Section 9-1403, vendors may propose other spaces which meet all conditions stated in Section 9-1407. Proposed spaces located partially or entirely on non-city property must have the written approval of the property owner.

ASSIGNMENT OF DESIGNATED SPACES:

Consistent with 9-1403, all above listed designated spaces use city property. As a condition of the city granting permission for use of public space, vendors will be assigned specific spaces for the calendar year according to the following process:

- 1 - Vendor must complete an application form as per 9-1402 and provide all required certifications from the state and insurers.
- 2 – Vendor must state whether they are seeking a food or non-food location.
- 3 – Vendor may request a vending location from the above list of designated spaces. Vendor may opt to list multiple spaces in order of preference (choice #1, choice #2 etc). Requests for spaces for the initial assignment must be submitted to the City Clerk's office by close of business on Monday, May 10, 2010. Thereafter all requests will be kept on file and considered in the order in which they are received.
- 4 – Any requests for use of the Christ Church or Washington County lawn spaces must be accompanied by written permission from those entities.
- 4 – On May 11, 2010 the City Manager will announce space assignments which will be effective on May 12, 2010 – the day the amended ordinance takes effect. Assignments are not final until the license fee is paid in full. After May 11, 2010, assignments for 2010 will be made in order that applications are received and based upon available spaces. The procedure for 2011 assignments has not been determined.
- 5 – Vendors will be assigned spaces as per their stated preferences whenever possible.

6 – In the event that multiple vendors request the same space, the assignment will take into consideration the following in priority order:

- 1) Written permission from non-city property owners
- 2) The Vendor's location in 2009
- 3) The order of receipt of application ("first come, first served")

7 – In the event of more vendor applications than spaces available, applications will be processed in the order in which they are received. Remaining applicants will be placed on a waiting list and offered spaces when/if they become available.

8 – A vendor must notify the city clerk if they permanently vacate a space during the season. Operating vendors in locations that were not their top choice will be given the option to move following the same criteria as initial selection. After any operating vendors have moved or declined to move, remaining vacant spaces will be offered to the next applicant on the waiting list upon receipt of their application fee.

9 – In the event that an applicant declines an offered spot, the space will be offered to the next applicant on the list and so forth. Upon a second declination of an offered spot, an applicant will move to the end of the waiting list.

10 – Spaces must be actively used. The ordinance is not intended to allow for the acquisition of a vending location for the sole purpose of leaving it empty and unused. The city reserves the right to revoke the license for any space which goes unused for more than 21 days. Circumstances such as owner illness, necessary cart repair, etc. will be considered before revocation.

11 – These procedures may be revised for the 2011 vending season.

William J. Fraser
City Manager
May 5, 2010