

**City of Niles Code of Ordinances
Riverfront Park Vendor Permit**

Sec. 62-120. Sales, displays, exhibits prohibited; food cart vendor exceptions, and licensing.

- 1) (a) License required. It shall be unlawful for any person, firm, corporation, association, club, society, or other organization to peddle, hawk, vend, sell, or display for sale or exhibit any product, article, or thing in a public park or recreation area or other municipally owned place or area without first having obtained a license to do so issued by the city clerk. A license may only be issued for the sale of food and nonalcoholic beverages by food cart vendors subject to the provisions of this chapter.
- 2) (b) Exemptions. The following persons, firms, corporations, associations, clubs, societies, and other organizations are exempt from the requirements of subsection (a) of this section:
 - (1) Any person or entity selling vegetables, fruits, or perishable farm products at any farmer's market approved by the city; and
 - (2) Any person or entity selling at any art fair, festival, special event or similar event at the invitation and/or approval of the event sponsor if the event has received city approval.
- 3) (c) Application. Applicants for a license under this section shall complete an application on a form approved by the city clerk, such application to contain the following:
 - (1) The applicant's name, date of birth, Social Security number, permanent address, business address, and telephone number at the time of filing the application and any prior business address used for the previous three years.
 - (2) A copy of the applicant's driver's license or state identification card.
 - (3) The name of the person represented, if different from the applicant, together with the address of the registered office of the business and registered agent designated in this state for service of legal process, and the address of the nearest local or district office.
 - (4) The names, addresses, and dates of birth of all employees or

individuals which will be involved in the applicant's proposed food or beverage sales.

- (5) Two photographs of the applicant and any employee or agent who shall be working for the applicant, which shall have been taken with 60 days immediately prior to the date of filing the application. Photographs shall measure two inches by two inches and show the head and shoulders of the applicant or employees or agents of the applicant in a clear and distinguishing manner.
- (6) A brief description of the nature of the business represented and the food and/or nonalcoholic beverages to be sold.
- (7) A statement as to whether the applicant has ever had any licenses required by this city or any other state or municipal authority revoked, suspended, or denied within three years immediately prior to the date of application, and the circumstances of any such revocation, suspension, or denial.
- (8) A copy of a valid current state sales tax license, or if exempt, a copy of a current exemption certificate, if required, for the food and/or nonalcoholic beverages to be sold.
- (9) A copy of a health card or its equivalent issued by either the county health department or other regulatory agency.
- (10) Proof of the existence of a policy of insurance issued by a company licensed to do business in the state, which policy insures the ability of the applicant for the license to respond to damages for any liability thereafter incurred resulting from the operation of such business licensed to the applicant, for personal injury or death in minimum liability amounts as determined by city risk analysis, such certificate to list the city as an additional insured.
- (11) Proof of the existence of a policy of insurance issued by a company licensed to do business in the state for product and completed operations coverage in minimum liability amounts as determined by city risk analysis, such certificate to list the city as an additional insured.
- (12) A release of information authorizing the city clerk to obtain a criminal history background check on the applicant and/or employees and agents of the applicant who would be engaged in the proposed food or beverage sales.
- (13) A statement as to how the applicant will comply with the

provisions and terms of this section, including but not limited to, a specific statement regarding the removal and proper disposal of waste, rubbish, or debris that may be associated with the applicant's proposed food or beverage sales.

- (14) Such other reasonable information as to the identity or character of the person having the management or supervision of the applicant's business as the city clerk may deem necessary to fulfill the purposes of this section.
- 4) (d) Fee. At the time the application for a license is filed with the city clerk, the applicant shall pay a nonrefundable fee to cover the cost to the city of processing the application, issuing a license and identification badges or tags, and the cost of the criminal history investigation. The license fee shall be \$100.00 or as otherwise established by resolution of the city council from time to time.
 - 5) (e) Review and approval of application. Upon receipt of an application with the required fee, the city clerk shall review the application to ensure the protection of the public health, safety, and general welfare. The city clerk is authorized and directed to forward an applicant's complete legal name, date of birth, Social Security number, and driver's license number or state identification number to the chief of police for a criminal history investigation. If the city clerk finds the application to be satisfactory, the clerk shall endorse her approval on the application and shall deliver the required license to the applicant. Issuance of a license pursuant to this section, the clerk shall also issue to each licensee badges, tags, or other means of identification, which shall be worn by the licensee or its employees in such a way as to be conspicuous at all times while engaged in the sale of food or beverages within the public parks.
 - 6) (f) Refusal of issuance. The city clerk, upon review of the application, may refuse to issue a license to the applicant under this section for any of the following reasons:
 - (1) The investigation reveals that the applicant falsified information on the application;
 - (2) The criminal history investigation, or other reliable information, reveals that the applicant has been convicted of a felony, misdemeanor, or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five years preceding the date of application;
 - (3) The criminal history investigation, or other reliable information,

reveals that the applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit, or misrepresentation has been entered within the five years immediately preceding the date of application;

- (4) The applicant has been denied a license under this section within the immediate past year, unless the applicant can and does show to the satisfaction of the city clerk that the reasons for such earlier denial no longer exists;
 - (5) The applicant has failed to properly complete the application or to submit the required fees and documents to the city clerk; or
 - (6) The applicant is in monetary default to the city for past due and delinquent taxes or utility payments, including but not limited to, sewer, water, and electric.
- 7) (g) Denial; notification. If an application for license is denied, the clerk's disapproval and the reasons for disapproval shall be noted on the application and the applicant shall be notified that their application is disapproved and that no license will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.
- 8) (h) Expiration. All licenses issued under this section shall expire on December 31.
- i) Vending restrictions. Licensees shall only be allowed to vend in Riverfront Park, Eastside Park, Plym Park, Southside Park, and Island Park. Vending is not permitted between the hours of 10:00 p.m. and 8:00 a.m. of the following day nor is vending permitted during city authorized special events, such as Riverfest, unless the licensee has approval from the event sponsor and the city clerk. Licensees are further prohibited from interfering with private events held pursuant to this section.
- 9) (j) Blocking right-of-way; interference. No licensee shall vend, stop, or remain on any right-of-way, parking lot, walkway, sidewalk, or trail located in a public park. All sales conducted within the public parks must not interfere with the reasonable and recreational use of the park.
- 10) (k) Use of certain structures or vehicles prohibited. The use of fixed stands, permanent structures, vending machines, motor vehicles, or vending trailers which require licensing by the secretary of state, are prohibited.
- 11) (l) Removal of wastes; utility fee. All licensees are solely responsible

for the removal and proper disposal of waste, rubbish, or debris that may be associated with their food or beverage sales. The licensee is also prohibited from utilizing any city owned power source or water source without the express prior permission of the city clerk and payment of a utility fee to be determined by the city utility department manager.

- 12) (m) Food and beverage quality. It shall be unlawful for any licensee to sell or expose for sale, or offer for sale, any stale, rotten, fermented, nauseous, or unwholesome food or beverages.
- 13) (n) Investigation upon complaint. Upon receipt of a complaint alleging a violation of this section, the city clerk shall conduct an investigation to determine whether the complaint is valid. Any license issued under this section may be suspended by the city clerk or the clerk's agent if it is determined that the nature of the violation warrants such action.
- 14) (o) Revocation of license. Any license issued under this section may be revoked by the city clerk, after notice and hearing, for any of the following reasons:
 - (1) The criminal history investigation, or other reliable information, reveals that the applicant has been convicted of a felony, misdemeanor, or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five years preceding the date of application;
 - (2) The criminal history investigation, or other reliable information, reveals that the applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit, or misrepresentation has been entered within the five years immediately preceding the date of application;
 - (3) Fraud, misrepresentation, or a false statement contained in the application for a license;
 - (4) Fraud, misrepresentation, or a false statement made by the licensee in the course of conducting licensed activity;
 - (5) Conducting activities contrary to the provisions of this chapter;
or
 - (6) Conducting activities in such a manner as to create a public nuisance, constitute a breach of the peace, or endanger the health, safety, or general welfare of the public.
- 15) (p) Appeal. Any person aggrieved by the action or decision of the city

clerk to deny, suspend, or revoke a license applied for under the provisions of this section shall have the right to appeal to the city administrator within 15 days of receipt of notification of such action.

- 16) (q) Violation. A violation of any of the provisions of this chapter, any city ordinance, any law of the state, or any rule or regulation adopted by any duly authorized agency of this state pertaining to the production, processing, storage, handling, or sale of food shall, upon conviction, be punishable as a misdemeanor.
- 17) (Ord. No. 423, 8-25-2003)
- 18) Cross references: Licenses, permits and miscellaneous business regulations, ch. 54.