



Sec. 14-47. - Mobile vendors.

- (a) **Definitions.** As used in this section, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Business sale. Any commercial activity in which any goods are offered for sale or trade of currency, but not including occasional sale of household goods by the owner (i.e. yard sales).

Edibles. Any food or beverage intended for human consumption.

Equipment. Any nonmotorized wheeled device by which any person or goods may be transported. No motorized equipment or vehicle is allowed for use on the beach strand by persons holding valid mobile vendor licenses.

Goods. Edibles, offered for sale.

MVL. Mobile vendor's license.

Person. Any individual, partnership, association, corporation, or any legal entity whatsoever.

Public road. Any public right-of-way for cars and trucks in the city, but not including sidewalks or footpaths.

Sale. Any trade or offer of trade for currency, credit, or goods.

Town. The Town of Ocean Isle Beach.

- (b) **Unlicensed sales prohibited.**

- (1) No person shall offer for business sale any goods in the town except from a business duly licensed pursuant to the applicable town ordinance, or unless the person holds a valid MVL, and fully conforms to the terms of this section.
- (2) No person shall conduct any business sale, or offer to conduct any business sale, from any public road, other public thoroughfare, sidewalk, parking lot, or any public property whatsoever, except persons holding a valid MVL and fully conforming to the terms of this section, are permitted to conduct business upon the beach strand or adjacent waters.
- (3) Any MVL issued pursuant to this section shall permit the holder thereof to operate only between the hours of 10:00 a.m. and 6:00 p.m., daily, from the Friday of Easter weekend through and including September 30 of each calendar year, and at no other time.

- (c) **MVL application; regulatory fee in the amount of \$100.00 per cart.**

- (1) Applications will be accepted at town hall and identified by the time and date of the filing. Applications that are incomplete or lack any required information will be returned to the applicant for completion. When an incomplete application is returned, it shall be taken in the new order in which it was received. The town shall issue each license on a first come, first serve basis, based upon the date and time a completed application is received. Mobile vendor licenses shall be issued by the town on an annual basis and shall be limited to five in number. Each licensee shall be a separate distinct entity (i.e. corporation, LLC, partnership, individual, etc.) and a subsidiary or partnership where individuals have pecuniary interests in one of the other applicants shall not be permitted.
 - a. Applications will begin being accepted during the month of December prior to the year which the MVL will be valid. MVLs will be issued in January. No applications will be accepted prior to December 1 or after December 31 (licenses issued for use during calendar year 2011 will be accepted March 1 through March 31 and the licenses issued in April).

- (2) Upon application, and upon expiration of a reasonable time for administrative processing and review, the tax collector shall issue an MVL only to any applicant who:
- a. Provides, on a form provided by the town, all of the following information regarding the applicant:
 1. Name, home address, local address, telephone number;
 2. Name under which business will operate;
 3. Social Security number;
 4. Federal tax identification number;
 5. State sales tax number; and
 6. Proof of payment of permit fee.
 - b. Provides, on a form provided by the town, all of the following information regarding the applicant's business sales:
 1. A description of the business, including specification of the goods offered for sale, and the expected locations from which sales will be offered;
 2. An outline of the methods to be used for solicitation; and
 3. A description, photo or drawing of the equipment to be used in the business, including, if applicable, the model, year, manufacturer and color.
 4. A professional rendering of all artwork or signs to be displayed on equipment. No handmade logos or signage will be allowed.
 - c. Submits a written acknowledgment from the appropriate state or county agency that the business is licensed in conformity with applicable health codes, which acknowledgment shall have been issued within 30 days of the application;
 - d. Provides proof of insurance required by this chapter;
 - e. Provides a mailing address at which notice of any town information pertinent to any MVL shall be considered received and binding upon the applicant or MVL holder on the fifth day after first class mail is posted to said address; and
 - f. Pays a regulatory fee as determined by the town council to be maintained on the town's official schedule of fees. This fee shall be based on the cost of regulation of the activities regulated in this section.
- (d) **Maximum number of carts.** The maximum number of carts per licensee shall be limited to three carts. Each cart must be licensed separately.
- (e) **Display of MVL.** Any person offering goods for business sale pursuant to an MVL shall display the MVL at the left rear side of any equipment used. If no equipment is so used, the person shall be able to show proof of mobile vendor license at all times.
- (f) **Conditions of MVL use.** Persons offering goods for business sale and holding a valid MVL shall be situated, together with their equipment, goods, displays, or other accoutrements whatsoever, only upon the beach strand, and shall not:
- (1) Obstruct vehicular or pedestrian traffic;
 - (2) Stand upon sidewalks, footpaths, or bicycle paths;
 - (3) Stand upon any parking lot, parking area, or loading zone;
 - (4) Reserved;
 - (5) Stop or stand any equipment or vehicle, except in the normal flow of traffic, within a public vehicular area;

- (6) Leave any equipment unattended for a period of longer than one hour;
- (7) Fail to provide an appropriate number and size of fire extinguishers, if using any flammable substance in vending operations;
- (8) Must display appropriate signage or artwork on both sides of equipment in order to properly identify business. No more than two signs with a total combined area of 12 square feet will be allowed. Signs may not be displayed anywhere except on the equipment being used. No freestanding signs advertising the business will be allowed on the beach strand.
- (9) Vendor may not remain in one location longer than one hour.
- (g) **Trash disposal.** Persons offering goods for sale shall provide for the disposal of products and shall be responsible for providing a means whereby purchasers may dispose of their litter.
- (h) **MVL nontransferable.** The MVL is nontransferable and shall be used only by the person in whose name it is issued. Each mobile unit must obtain its own MVL and shall be operated by the licensee or their agent.
- (i) **Insurance.**
 - (1) No person shall offer for business sale any goods pursuant to an MVL unless that business is covered by a comprehensive business liability insurance policy insuring the public against injury or damage occasioned by negligence arising from or incidental to the business activity. At a minimum, the policy shall provide coverage of \$25,000.00 per person and \$100,000.00 per incident.
 - (2) Proof of the continued viability of the insurance policy shall be provided upon the town's request given on reasonable notice at any time that the MVL is valid and outstanding. Any failure to provide proof shall render the MVL null and void and of no further use or effect. The holder's subsequent application for a new MVL shall be entitled to no special priority.
- (j) **Suspension and revocation.** In addition to all other applicable penalties and remedies, any MVL may be suspended or revoked for repeated or serious violations of this section or of any other town ordinance or state law. Any holder of an MVL may, upon request, have a hearing on the suspension or revocation, before a hearing conducted by the town board of commissioners.
- (k) **Injunction, other court action.** In addition to all other remedies and penalties provided by this section and other ordinances, the town attorney may bring suit in a court of competent jurisdiction to seek an injunction or other appropriate relief, to halt any violation of this section. Such action may include seeking a temporary restraining order or temporary injunction and other appropriate temporary relief. Nothing in this section shall be deemed to restrict a suit for damages on behalf of the town or on behalf of any other person or entity.
- (l) **Severability.** The provisions of this section are severable. If any provision of this section or its application to any person or circumstance is held to be invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application.
- (m) **Exemption.** When a group has applied for special group activity status (i.e. fishing tournament/10K race/oyster festival, etc.) and said group has secured permission from the board of commissioners to operate during a specific time within a specific area, individual mobile vendors sponsored by the activity and setting up in conjunction with said activity, are exempt from this section.
- (n) **Penalty.** Any person, firm or corporation violating any provision of this section shall be fined \$200.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. of 6-8-2004, § 2; Ord. of 6-14-2005(2); Res. of 9-11-2007(4); Res. No. 2010-06, § 1, 3-9-2010; Res. No. 2010-08, § 1, 4-13-2010; Res. No. 2011-05, §§ 1—6, 2-8-2011; Res. No. 2015-11, § 3, 7-14-2015)