

PROOF OF PUBLICATION

STATE OF COLORADO)
)
COUNTY OF EAGLE)

I, Jenny Rakow, Town Clerk for the Town of Eagle, do solemnly swear and affirm that I published in full a true and correct copy of Ordinance No. 14, Series of 2020, on the Town of Eagle’s web site, www.townofeagle.org, on the 29th day of July, 2020.

Witness my hand and seal this 29th day of July 2020.


Jenny Rakow
Town Clerk



TOWN OF EAGLE, COLORADO
ORDINANCE NO. 14
(Series of 2020)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AMENDING TITLE 5 OF THE EAGLE MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 5.17, TO ALLOW MOBILE VENDING IN DESIGNATED AREAS WITHIN THE TOWN

WHEREAS, allowing mobile vending in the Town will support economic development and help new businesses operate in the community;

WHEREAS, developing a mobile vendor permit program ensures that structures, vehicles, and equipment can coexist safely on public and private property; and

WHEREAS, the Town Council wishes to amend the Eagle Municipal Code to allow for and regulate mobile vending on both public and private property in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Chapter 5 of the Eagle Municipal Code is hereby amended by the addition of the following new Chapter 5.17, entitled Mobile Vending:

CHAPTER 5.17
MOBILE VENDING

Section 5.17.010. – Definitions.

Long-term mobile vending means mobile vending other than short-term mobile vending.

Mobile food vendor means a retail food establishment that is a wheeled vehicle (such as a mobile truck, trailer, or pushcart) that is readily movable and designed for the service of food from the interior of the unit.

Mobile vendor means a person who sells or attempts to sell, or offers to the public, any services, goods, wares or merchandise, including without limitation food or beverage, from a mobile truck, mobile trailer, or mobile cart.

Mobile vendor vehicle means a truck, trailer, pushcart, wagon, mobile stand, motor vehicle or other vehicle, or other appurtenances used to conduct mobile food vendor operations.

Short-term mobile vending means mobile vending that occurs for a time period not exceeding five (5) consecutive days, and not totaling more than one hundred eighty (180) days per year.

Section 5.17.020. – License and permit required.

- A. It is unlawful for any person to operate as a mobile vendor within the Town without first obtaining a business license and a mobile vending permit.
- B. Mobile vendors must conspicuously display their business license and mobile vending permit at all times during operation.
- C. Each January, the Town Manager shall set the number of permits to be issued that year.
- D. The issuance of a mobile vending permit is not limited by adjacent, concurrent mobile uses.

Section 5.17.030. – Permit application.

An application for a mobile vending permit shall be submitted to the Town on forms provided by the Town, and shall include the following information at a minimum:

- 1. An application fee as set by resolution of the Town Council;
- 2. A statement as to whether the applicant is requesting a short-term or long-term mobile vending permit;
- 3. A scaled drawing of the dimensions of the proposed mobile vendor vehicle, and any displays, signage, furniture, or other appurtenances thereto;
- 4. A site plan of the property or properties in which the mobile vendor intends to operate, including an indication of whether the applicant is applying for a specific site designated for such use by the Town;
- 5. A written plan for waste disposal;
- 6. If on private property, proof of ownership or written permission from the property owner;
- 7. If on public property, a certificate of insurance naming the Town as an additional insured in amounts no less than one million dollars (\$1,000,000) per person and two million dollars (\$2,000,000) per incident;

8. Evidence of all required permits and licenses, including without limitation a Colorado sales tax license, a Town business license, Town building permits, Town special use permits, and if the mobile vending activity includes any food product, a Mobile Retail Food Establishment License from the Eagle County Department of Public Health and Environment; and

9. Any other information deemed necessary by the Town to make a determination as to whether the application meets the requirements of this Chapter.

Section 5.17.040. – Review and approval.

A Short-term mobile vending. The Town may administratively approve an application for a short-term mobile vending permit if the following criteria are satisfied:

1. The application, including fees and insurance evidence, is complete;
2. The mobile vending activity is consistent with the zoning of the property;
3. The applicant has demonstrated the ability to comply with the requirements of this Chapter and any necessary permit conditions; and
4. The applicant is not delinquent in the payment of any permit fees or sales or use tax payments to the Town or the state.

B Long-term mobile vending. The Town may administratively approve an application for a long-term mobile vending permit if the application satisfies the criteria set forth in subsection A hereof and is appropriate based on the following criteria:

1. Compatibility with this Code;
2. Compatibility with the character of the surrounding area;
3. Orientation and siting with respect to impact on adjacent properties and public ways;
4. Landscaping, including without limitation surface materials, plants, benches, tables and trash receptacles;
5. Design, size and placement of signage and awnings; and
6. Appropriateness of lighting.

C. Conditional approval. The Town may approve a mobile vending permit with reasonable conditions if such conditions would allow the application to comply with the above-referenced criteria, including without limitation modifying the term of the permit. Such conditions shall be specified in the mobile vending permit.

D. Indemnity. As a condition of every permit, mobile vendors agree to indemnify and hold harmless the Town, its officers, employees and agents against any and all claims for damage to persons or property arising out of or resulting from the mobile vendor's actions or omissions in carrying out the mobile vending.

E. Conflicts. The Town occasionally authorizes activities or special events that may impact specific designated sites. Mobile vendors who have been granted a permit for a designated site shall not be allowed to vend during those permitted special events unless specifically authorized in writing by the event producer.

Section 5.17.050. – Term and renewal.

A. A short-term vending permit shall be valid only for the period stated in the application, unless revoked or suspended prior to expiration. A long-term vending permit shall be valid through December 31st of the year in which it is issued.

B. An application for renewal of a mobile vending permit shall be submitted to the Town on forms provided by the Town and shall be processed in the same manner as an initial application, provided that any information previously submitted that has not changed need not be resubmitted with a renewal application.

Section 5.17.060. – Location; hours.

A. Mobile vendor vehicles shall abide by all Town parking rules and standards.

B. Mobile vendors may operate on public rights-of-way and public parking lots in any non-residential zone district. Mobile vendors may operate on private property with written permission of the property owner.

C. It is unlawful for a mobile vendor to stop or operate within twenty (20) feet of an intersection, or to sell or attempt to sell to any person who is standing in the street or roadway, or operate in any area so as to interrupt or interfere with the normal flow of vehicular or pedestrian traffic.

D. It is unlawful for a mobile food vendor to stop or to place a mobile food vending apparatus, food, tables, chairs or other fixtures, furniture, devices, generators or awnings used to conduct mobile food vendor operations so as to

obstruct the free travel of pedestrians or vehicles in, on, near or above any public street, sidewalk, or other public right-of-way.

E. It is unlawful to engage in mobile food vendor operations upon any private property without the express written permission of the owner.

F. It is unlawful for a mobile food vendor to operate within fifty (50) feet of an open brick-and-mortar restaurant without written permission from the restaurant's property owner.

G. Mobile food vendors shall only operate between the hours of 6:00 a.m. and 10:00 p.m.

H. Mobile vendors shall comply with all applicable state and county regulations, including health mandates and sanitation requirements.

I. Mobile vendors shall be responsible for providing trash and sanitation stations and for any environmental impacts resulting from their operation.

J. Mobile vendors shall maintain the permitted area and immediate area surrounding the permitted area free of debris, trash, and hazards.

K. Short-term mobile vendors shall move their vehicle to a new location at least once every 24 hours.

Section 5.17.070. – Suspension and Revocation.

A. Grounds for suspension or revocation of a permit issued under this Chapter shall include without limitation:

1. A violation by a permittee of any provision of the permit, this Chapter or any other applicable law;
2. Conducting mobile vending activities in such a manner as to create a public nuisance or constitute a danger to the public health, safety and welfare;
3. Failure to pay state or local taxes that are related to the operation of the business associated with the permit; or
4. Fraud, misrepresentation or a false statement of material fact contained in the original or renewal permit application.

B. The Town shall deliver written notice to the permittee stating the action taken and the reason supporting such action. The written notice may be hand delivered to the permittee or mailed to the permittee's last known address.

Section 5.17.080. – Violation and Penalties.

A. Violations of this Chapter may result in the immediate suspension or revocation of a vending permit. In addition, a violation of this Chapter shall be subject to the civil penalties set forth in Chapter 1.12 of this Code.

B. Each day of violation of this Chapter shall constitute a separate offense.

Section 5.17.090. – Appeal.

An appeal of any decision by the Town made pursuant to this Chapter, including denial, suspension, or revocation of a permit, may be made by filing with the Town a written notice of appeal within fourteen (14) days of the date of the decision being appealed. The Town Council will hear such appeal on a *de novo* basis within thirty (30) days of the filing of the appeal. Failure to file an appeal within the time allotted shall be a jurisdictional bar to the Town Council's authority to hear such appeal. The decision of the Town Council shall be final, subject only to judicial review under C.R.C.P. 106(a)(4).

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 3. Safety. This Ordinance is deemed necessary for the protection of the public health, safety and welfare.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED ON
July 29, 2020.

ATTEST:



Jenny Rakow, Town Clerk



TOWN OF EAGLE, COLORADO



Scott Turnipseed, Mayor