

MOBILE VENDING DEVICES

Please Note: These standards would regulate mobile vending devices that are proposed for approved locations. Approved mobile vending locations would be established per the related requirements in the proposed Subchapter 84.

Sec. 8-416. Purpose.

~~The purpose of this section is to regulate mobile vending, mobile vending devices and mobile food units. The purpose of this subchapter is to regulate the operation of mobile vending devices and mobile food units at approved mobile vending locations.~~

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

Sec. 8-417. Applicability.

This section shall not apply to:

- (a) Lemonade stands and other similar limited sales by minors.
- (b) Garage sales.
- (c) Car wash fundraisers.
- (d) Vendors at farmers' or flea markets while working under the event organizer's city-granted authorization.
- (e) Mobile vendors conducting business at a community event or on a temporary street closure while working under the event organizer's city granted authorization.
- (f) The sale of agricultural consumables, where the vendor does not prepare, process or convert the item, for no more than seven days within a 30-day period.

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

Sec. 8-418. Definitions.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Conduct business means carrying, conveying, transporting, selling or offering for sale food or beverage of any type or fresh cut flowers, balloons, souvenirs, other non-food~~

~~merchandise for immediate delivery, or service either from a mobile vending device or as a pedestrian.~~

~~Mobile food unit is any moveable motor vehicle, trailer or wagon that is used for the purpose of preparing, processing or converting food for immediate consumption as a drive-in, drive-through, curb or walk-up service.~~

~~Mobile vending device includes devices used to conduct business, such as pushcarts as defined in this section, motorized vehicles, trailers, recreational vehicles, or any device in, upon or by which any person or property is or may be transported, moved or drawn or any structure or enclosure, which because of its size, construction or use of materials is not regulated by the Uniform Building Code.~~

~~Mobile vendor is any person(s), entity(ies) or other parties that conduct business either from a mobile vending device, pushcart, table, tent or other temporary device.~~

~~Pushcart means a wheeled, non-motorized vehicle of such size and weight that it may be easily moved by no more than two people.~~

~~Sidewalk means that portion of the street between the curblines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians.~~

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

~~The definitions in Independence Development Code Subchapter 84 apply to this section.~~

Sec. 8-419. Standards. Mobile Vending License for Approved Mobile Vending Locations

~~(a) The following standards shall be used by the City Manager, per section 8-422, to process mobile vendor permits:~~

~~(a) — Allowed zones. Mobile vendors may operate in all zones except the RS, RM, RH, and MX zones.~~

~~(b) — General location requirements. Mobile vendors may only operate in paved parking lots or other hard surface areas.~~

~~(c) — Use of public right-of-way. Mobile vendors may not operate or locate within a public right-of-way, unless the applicant demonstrates that the use will not have an impact to pedestrian or vehicular travel and the city approves such use by permit.~~

~~(d) — Use of city property. Mobile vendors may operate on city-owned property, if the location is approved as part of the permit.~~

~~(e) — Clear travel ways. Mobile vendors, including all vehicles, devices and items associated with the operation, shall not obstruct pedestrian pathways, driveways or drive aisles of any off-street parking area and shall not be located anywhere except the specific location designated in an approved permit. The City Manager may consider adopted, non-discretionary city standards, including but not limited to city vision clearance standards set in Independence Development Code Section 75.050 and City Public Works Standards, to determine appropriate locations.~~

~~(f) — Sufficient parking. Mobile vendors shall only be allowed in locations that have adequate parking to accommodate the use, and any existing uses on the site. Mobile vendors permitted under this article must maintain adequate parking (per Independence Development Code Subchapter 73) at their locations at all times. A determination of the needed spaces shall be based on the amount of seating area that is available for restaurant uses, and the amount of display area that is available for retail and service uses, plus one parking space. If a mobile vendor fails to maintain adequate parking, the city may revoke his or her mobile vending permit pursuant to section 8-423.~~

~~(g) — Disposal of waste. Mobile vendors shall account for the waste generated by the proposed use, including solid waste and wastewater. Receipts proving continued wastewater and solid waste disposal service may be requested by the city at any time during the permit term.~~

~~(h) — Clean environs. Mobile vendors shall pick up any paper, cardboard, wood, or plastic containers, wrappers, or any litter which is deposited by any person within 20 feet of the mobile vendor when conducting business.~~

~~(i) — Site-obscuring materials. All mobile food units or mobile vending devices parked in an approved location for more than seven days shall provide sight-obscuring materials for all conduit, tanks and storage areas visible to the public and skirting along the perimeter of the mobile food unit or vending device. Sight-obscuring materials include screening, fencing or temporary landscaping and must comply with all applicable city ordinances and codes.~~

~~(j) — Transportable. Mobile vending devices and mobile food units shall remain movable at all times and maintain vehicle licensing for travel upon the road if applicable.~~

~~(k) — Signage. Signs for a mobile vendor, other than on the mobile vending device itself, shall meet the standards for sandwich board or temporary signs set in Independence Development Code Section 58.040(N).~~

~~(l) — Drive through not allowed. A mobile vendor shall not operate as a drive through facility, as defined in the Independence Development Code.~~

~~(m) — Consistent with health standards. All mobile food units shall conform to all applicable State and County health codes.~~

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

To receive a mobile vending license for a location approved under Independence Development Code Subchapter 84, an applicant shall apply on the forms prescribed by the City of Independence and meet the standards listed below.

(b) Any permit granted is valid for one year, at which time the City will reinspect the mobile vending device. The City may extend the permit annually so long as the mobile vending device continues to operate in accordance with the original permit and the standards in this Section.

Sec. 8-420. Application.

~~(a) (a) — No person may conduct any mobile vending business (including the operation of a mobile food unit) in the city without first submitting an application and obtaining a permit from the City Manager or his or her designee.~~

~~(b) — Each application shall be accompanied by a nonrefundable fee, as established by Council resolution.~~

~~(c) — Applications shall be made in a form approved by the City Manager. A separate application shall be required for each mobile vending business.~~

~~(d) — The application shall include, but not be limited to, the following information:~~

~~(1) — The name and address of applicant.~~

~~(2) — A description of the type of merchandise to be sold.~~

~~(3) — A valid copy of all necessary permits required by state or local health authorities.~~

~~(4) — A site plan that shows the following information:~~

~~a. — The proposed location of the mobile vendor, and the distance to nearby sidewalks, driveways or structures.~~

~~b. — The location of the hard-surface area where a mobile vending device will be located.~~

- c. ~~— The location of any power service to the unit.~~
 - d. ~~— The location of proposed garbage receptacles, chairs or other temporary furniture.~~
 - e. ~~— The location of any utilities that will serve the unit.~~
 - f. ~~— A traffic plan, showing the in/out flow of cars; and the parking for customers and employees.~~
- (5) ~~— A project narrative that includes:~~
- a. ~~— The means used to conduct the business including, but not limited to, a photo and description of any mobile vending device or mobile food unit to be used for the transport or display of merchandise.~~
 - b. ~~— The proposed hours of operation for the use.~~
 - c. ~~— An explanation of how employees will use the restroom during the hours of operation and proximity of the restrooms to the location of the mobile vending unit.~~
 - d. ~~— A disposal plan or contract for wastewater and gray water.~~
- (6) ~~— Written consent from the property owners where the use will be located, if not the applicant. Mobile vending devices may operate on city-owned property provided that the city grant the vendor a site-specific permit, which shall be conspicuously displayed on-site.~~
- (7) ~~— If the mobile vendor will be located on city property or right-of-way, a signed statement that the permittee shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers, agents and employees for any claims for damage to property or injury to persons occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain public liability, food products liability and property damage insurance to protect the permittee and the city from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connections with it. The insurance shall provide coverage of not less than \$1,000,000.00 for bodily injury for each person, \$2,000,000.00 for each occurrence and not less than \$500,000.00 for property damage per occurrence. The insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the city, its officers, agents and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the mobile vending activity without 30 days written notice to the City Manager.~~

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

~~To apply for a mobile vending license, the applicant shall submit:~~

- ~~1. A description of the type of merchandise to be sold.~~
- ~~2. A project narrative that includes:~~
 - ~~a. The means used to conduct the business, including but not limited to a photo and description of any mobile vending device to be used for the transport and/or display of merchandise.~~
 - ~~b. The proposed hours of operation of the use.~~
 - ~~c. Any flammable materials proposed for the activity, and the location the materials are proposed to be stored.~~
 - ~~d. The disposal plan or contract for wastewater and gray water.~~
 - ~~e. If applicable, the specifications for any generator or any other mechanical device proposed to be used.~~
 - ~~f. If applicable, details associated with any lighting proposed for the activity.~~
- ~~3. Written consent from the property owners where the use will be located, if the applicant is not the property owner.~~

~~(b) Prior to operation of the use, the applicant additionally shall submit a valid copy of all necessary permits required by state or local health authorities.~~

~~**Sec. 8-421. Form and conditions of permit. Standards applicable to Mobile Vending Devices**~~

~~(a) The City Manager shall grant a mobile vendor permit if:~~

~~(1) The City Manager or his/her designee finds that the mobile vendor meets the standards set in 8-420 and will not detract from the health, safety, general welfare of the city.~~

~~(2) The Fire Marshall certifies that a cooking or heating apparatus is in conformance with the provisions of the Oregon Fire Code and that all other health and life safety requirements have been satisfied.~~

~~(b) Permits issued under this section shall be in a form prescribed by the City Manager and contain the following conditions:~~

~~(1) Each permit shall be issued for a one-year period.~~

~~(2) The permit issued shall be personal only and shall not be transferable in any manner.~~

~~(3) — The permit shall be valid only when used at the location designated on the permit.~~

~~(4) — The permit shall be subject to the conditions and restrictions of this article.~~

~~(5) — The permit as it applies to a given location may be suspended by the City Manager for a period up to ten days when Council actions allowing a community event shall so provide.~~

~~(c) — Under an approved permit, no mobile vendor shall:~~

~~(1) — Operate in a manner which creates a danger to persons or property.~~

~~(2) — Deliberately hinder or impede pedestrian traffic.~~

~~(3) — Obstruct the clear vision of the driver of any vehicle approaching or entering an intersection.~~

~~(4) — Operate in a manner which will hinder emergency or utility services.~~

~~(5) — Operate in violation of any of the city's land use regulations or municipal codes.~~

~~(d) — All mobile vendors that obtain an approved mobile vending permit shall conspicuously display the permit or any written approvals relating to mobile vending under this article during all times that a vendor's mobile vending unit or device occupies the location designated on his or her permit.~~

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

(a) — The following standards apply to mobile vending devices that seek to locate in approved mobile vending locations.

1. Consistency with Standards for an Approved Mobile Vending Location. All mobile vending units shall conform to the approval for the mobile vending location where the activity is proposed.
2. Transportable. All mobile vending devices shall remain movable at all times and, if applicable, maintain vehicle licensing for travel upon the road.
3. Minimization of Off-Site Impacts.
 - A. All mobile vending devices and associated mechanical equipment (including any generators) shall generate less than 75 decibels of sound during operation.
 - B. All mobile vending devices shall direct all exterior lighting down and shall not allow the spill of light onto adjacent properties.

4. Site-obscuring materials. Mobile vending devices proposed to be parked in an approved location for more than seven days shall provide sight-obscuring materials for all conduit, tanks and storage areas visible to the public. Sight-obscuring materials include screening, fencing or temporary landscaping and shall comply with all applicable city ordinances and codes.
5. Insurance. If a mobile vendor will be located on city property or right-of-way, the applicant shall provide a signed statement that the applicant shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers, agents and employees for any claims for damage to property or injury to persons occasioned by any activity carried on under the terms of the permit. The applicant shall furnish and maintain public liability, food products liability and property damage insurance to protect the permittee and the city from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connections with it. The insurance shall provide coverage of not less than \$1,000,000.00 for bodily injury for each person, \$2,000,000.00 for each occurrence and not less than \$500,000.00 for property damage per occurrence. The insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the city, its officers, agents and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the mobile vending activity without 30 days written notice to the City Manager.

(b) The following additional standards apply to mobile food units:

1. Consistent with health standards. All mobile food units shall conform to all applicable State and County health codes.
2. Consistent with Oregon Fire Code. All mobile food units shall be certified by the Fire Marshall to ensure that the cooking or heating apparatus is in conformance with the provisions of the Oregon Fire Code and that all other health and life safety requirements have been satisfied.

Sec. 8-422. Denial or revocation of permit.

(a) The City Manager may deny, revoke or suspend the permit of any person to conduct a mobile vending business if the City Manager finds:

- (1) That the person has violated any of the standards or provisions set in this article.
- (2) Any necessary health or other permit has been suspended, revoked or canceled.

~~(3) — The permittee does not have a currently effective insurance policy in the minimum amount provided in section 8-421(7).~~

~~(4) — Criminal conduct in relation to the service provided has been determined.~~

~~(b) — Upon denial or revocation, the City Manager shall give notice of the action to the permit holder in writing stating the action taken and the reasons for it. The action shall be effective upon giving the notice to the permittee. Any revocation may be appealed to the City Council by filing a written notice of appeal within ten days.~~

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

~~**Sec. 8-423. Violation.**~~

~~A mobile vendor that violates this article, or the placement of a mobile vending device on any street, sidewalk, or private property in violation of the provisions of this article is declared to be a public nuisance. The offense is an Independence Municipal Code Class A violation, per section 1-22. The City Manager may, after following the nuisance procedures in article II of chapter 14, cause the removal of any vendor, cart or device found on a street, sidewalk or private property in violation of this article and may store the cart or device until the owner redeems it by paying the removal and storage charges established by the Manager. Remedial actions taken by the city are in addition to, not in lieu of any other remedies available to the city.~~

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

~~**Sec. 8-424. Appeal.**~~

~~Any decision of the City Manager may be appealed to the City Council upon filing a written appeal with the City Recorder. The appeal must specify the grounds where the Manager failed to follow the terms of this article. The appeal must be filed within 30 days of the decision on the permit. The appeal must be filed by a resident of the city or by the applicant. The appeal may be accompanied by any other information the appellant deems appropriate. The Council shall make a decision on the appeal by reviewing the record of the Manager's decision and the appeal. The Council decision shall be provided to the applicant within seven days from the date of the decision.~~

~~(Ord. No. 1571, § 1(Exh. A), 8-13-2019)~~

~~**Sec. 8-425. Prohibited solicitation.**~~

~~It is unlawful for any person to solicit or demand any pecuniary benefit from any vendor in return for the vendor locating a mobile device on any public street or sidewalk in front of a particular business.~~

(Ord. No. 1571, § 1(Exh. A), 8-13-2019)

~~Secs. 8-426–8-440. Reserved.~~

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