

ORDINANCE NO. 079, 2016
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE XIV OF CHAPTER 15 OF THE
CODE OF THE CITY OF FORT COLLINS REGARDING OUTDOOR VENDORS

WHEREAS, on July 17, 2012, the City Council adopted Ordinance No. 058, 2012, making various amendments to Article XIV of Chapter 15 of the City Code to update and expand the licensing of outdoor vendors in Fort Collins and to establish related requirements; and

WHEREAS, on July 17, 2012, the City Council concurrently adopted Ordinance No. 057, 2012, making various amendments to Articles 3, 4, and 5 of the City's Land Use Code to define and regulate outdoor vendors in zones throughout the City; and

WHEREAS, these 2012 City Code and Land Use Code amendments were adopted to address the growing trend and demand in Fort Collins for mobile food trucks and other outdoor vendors, and such amendments addressed the specific impacts on the community and requirements of mobile food trucks and other outdoor vendors; and

WHEREAS, instances of mobile food trucks and other outdoor vendors located semi-permanently or permanently at a fixed location on private property have been observed, essentially becoming "stationary vendors"; and

WHEREAS, mobile food trucks and other outdoor vendors located semi-permanently or permanently at a fixed location create different impacts and have different requirements than those originally contemplated under the City Code and Land Use Code amendments made in 2012; and

WHEREAS, the current City Code does not distinguish between semi-permanent or permanent outdoor vendors from more mobile outdoor vendors resulting in equal treatment of potentially unequal impacts; and

WHEREAS, the City Council finds it reasonable to further amend Article XIV of Chapter 15 of the City Code to address the different impacts and requirements created by mobile food trucks and other outdoor vendors located semi-permanently or permanently at a fixed location; and

WHEREAS, in order to allow the City's currently licensed outdoor vendors time to adjust their future operations to the Code amendments adopted in this Ordinance, it is City Council's intent that these amendments not go into effect until January 15, 2017; and

WHEREAS, the City Council further finds that the adoption of these Code amendments is necessary for the public's health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the definition of "Outdoor vendor" contained in Section 15-381 of the Code of the City of Fort Collins is hereby amended to read as follows:

Outdoor vendor or *vendor* shall mean any person, whether as owner, agent, consignee or employee, who sells or attempts to sell, or who offers to the public free of charge, any services, goods, wares or merchandise, including, but not limited to, food or beverage, from any outdoor location, except that outdoor vendor shall not include a person who:

Section 3. That the definition of "*Private*" contained in Section 15-381 of the Code of the City of Fort Collins is hereby amended to read as follows:

Private shall mean relating or belonging to an individual or non-governmental entity as opposed to the public or government.

Section 4. That Section 15-381 of the Code of the City of Fort Collins is hereby amended by the addition of four new definitions, "*calendar week*", "*stationary vending*", "*stationary vendor*", and "*vehicle*" which read in their entirety as follows:

Calendar week shall mean a week beginning with Sunday and ending with Saturday.

Stationary vending shall mean an outdoor vendor vending from the same private parcel of land or lot for more than three (3) consecutive calendar days, or for more than three (3) calendar days within a single calendar week from a mobile food truck, pushcart or any other vehicle.

Stationary vendor shall mean an outdoor vendor who engages in stationary vending.

Vehicle shall mean a device capable of moving itself, or being moved, from place to place upon wheels or endless tracks.

Section 5. That Section 15-384 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-384. - Contents of application.

(a) The application shall contain the following information:

...

(6) An address or legal description for each location on private property and an address or other description acceptable to the Financial Officer for each public right-of-way location and any other location for which the application is made;

- (7) Written consent of the property owner if the location for which the application is made is on property that is not public right-of-way;
- (8) Proof of liability insurance as required by Subsection 15-387(c) of this Article;
- (9) A plan of each (not every) location on private property for which the application is made, showing the location of existing and proposed structures, access, equipment and parking;
- (10) Documentation of a sales and use tax license in good standing issued by the Colorado Department of Revenue, the County and the City;
- (11) For the vending of food, documentation of regulatory approval as a retail food establishment by the County
- (12) For an application to engage in stationary vending, documentation that the owner of the private property from which the stationary vending is proposed to be conducted has received under the Land Use Code all approvals required for such vending on that property.

Section 6. That Section 15-386 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-386. - Requirements for issuance.

...

- (b) In addition to the licensee's name, address and telephone number, the license shall contain the following:
 - (1) The type or types of vendor operation the licensee will conduct (i.e., mobile truck vendor, stationary vendor, pushcart vendor, etc.);
 - (2) The period of time for which the license was issued;
 - (3) The hours and days of operation;
 - (4) The designated location or locations, including specified types of public rights-of-way, as applicable;
 - (5) A brief description of any vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device to be utilized by the licensee;
 - (6) Any special terms and conditions of issuance;

- (7) A statement that the license is personal and is not transferable in any manner;
- (8) A statement that the license is valid only when used at the location or locations designated on the license; and
- (9) A statement that the license is subject to the provisions of this Article.

Section 7. That Section 15-387 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-387. - Restrictions and operation.

- (a) No licensee may use, for the purpose of on-site storage, display or sale, any vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device not described in the license.
- (b) The vehicles, structures, devices and other similar items described in the license for any outdoor vendor shall not be located by the vendor in any of the following manners or places:
 - (1) In any on-street parking space that is not parallel to the adjacent street;
 - (2) In any public parking space in a manner that does not comply with applicable parking regulations or a properly issued parking permit for the use of said parking space;
 - (3) Upon a public sidewalk within the extended boundaries of a crosswalk;
 - (4) Within ten (10) feet of the extension of any building entranceway, doorway or driveway;
 - (5) Upon a public sidewalk within the Downtown Zone District, as defined and established in Article 4 of the Land Use Code (except as a concessionaire of the City);
 - (6) Upon a public right-of-way, or public street, alley or sidewalk within a City park or other City facility (except as a concessionaire or pursuant to a permit issued for operation in a park or recreation area or on a trail pursuant to Subsection 23-203(d) of this Code, or for operation at another City facility pursuant to a facility-specific permit issued by the City);
 - (7) In any location in which the vehicle, structure or device may impede or interfere with or visually obstruct:
 - a. the safe movement of vehicular and pedestrian traffic;

- b. parking lot circulation; or
- c. access to any public street, alley or sidewalk; or

(8) With respect to mobile food trucks, pushcarts and other vehicles from which the vendor vends, outdoors between 3:00 a.m. and 7:00 a.m. at any location authorized in the vendor's license, unless the vendor is a stationary vendor and is the owner of the licensed location or of the principal business on the licensed location.

(c) No licensee shall operate during the hours of 3:00 a.m. to 7:00 a.m.

(d) Each licensee who, during the course of its licensed activities, operates within or enters upon a public right-of-way or publicly owned property shall maintain liability insurance in an amount to be determined by the Financial Officer according to administrative regulation with proof of the same to be presented at the time of submission of the application. Any licensee who fails to provide proof of such insurance shall be prohibited from operating within or entering upon such property.

(e) Each licensee shall pick up and dispose of any paper, cardboard, wood or plastic containers, wrappers or any litter which is deposited within twenty-five (25) feet of the designated location or within twenty-five (25) feet of the point of any sale or transaction made by the licensee if the radius of the designated location exceeds twenty-five (25) feet. The licensee shall carry a suitable container for the placement of such litter by customers or other persons.

(f) Each licensee shall maintain in safe condition any vehicle, structure, device or any other similar item described in the license, so as not to create an unreasonable risk of harm to the person or property of others, and shall use flashing lights and other similar warning and safety indicators when stopped to vend services in any location in a street right-of-way.

(g) No licensee shall leave unattended for more than fifteen (15) minutes at any one time while vending any vehicle, structure, device or any other similar item described in the license, on a public right-of-way or at any licensed location, or place on public sidewalks or in public streets or alleys any structures, canopies, tables, chairs or other furniture or equipment.

(h) Each licensee shall prominently display the license issued hereunder in a location readily visible to the public on each vehicle, structure, device and any other similar item described in the license.

(i) Each licensee operating in an on-street location must serve the public only from the sidewalk and not from the street or adjacent parking spaces.

(j) Each licensee shall comply with the provisions of all applicable ordinances of the City as well as the requirements of all state and federal laws, including, but not limited to, City noise restrictions, sign regulations, limitations on discharge of liquid waste, sales and use tax requirements and food safety and other related requirements established by State or County regulation.

(k) No more than two (2) outdoor vendors of any specified type may be licensed to operate concurrently on any lot, tract or parcel of land, except that this limitation shall not apply to special vending licenses and licenses for special events as described in § 15-382 of this Article.

(l) Each licensee shall have an affirmative and independent duty to determine the safety and suitability of any particular stopping point or location of operation, both in general and at any particular time and to operate in a manner reasonably calculated to avoid and prevent harm to others in the vicinity of the licensee's operations, including, but not limited to, potential and actual customers, pedestrians and other vendors or vehicles.

(m) No licensee shall operate from a location that is not authorized in the licensee's license.

(n) Licensees that vend from mobile food trucks, pushcarts or any other vehicles shall not operate from a location approved in the licensee's license for more than three (3) consecutive calendar days, or for more than three (3) calendar days within a single calendar week, unless the licensee is authorized in the license to operate as a stationary vendor at that location.

(o) No licensee shall vend for more than twelve (12) hours per calendar day from any one (1) location approved in the licensee's license.

(p) The following additional requirements shall apply to particular types of outdoor vendor licensees, as specified:

(1) Mobile food truck vendors shall:

a. Vend only on lots in non-neighborhood zone districts or on streets in locations in non-neighborhood zone districts where parallel parking is allowed;

b. Not stop to vend within two hundred (200) feet of the property boundary of any public or private school for students within the grade range of kindergarten through twelfth (12th) grade;

c. Vend only food and nonalcoholic beverages; and

- d. Permanently affix or paint any signage on the mobile food truck, with no signs/banners in or alongside street right-of-way or across roadways.
- (2) Pushcart vendors shall:
 - a. Vend only on lots in non-neighborhood zone districts or on streets in locations in non-neighborhood zone districts where parallel parking is allowed;
 - b. Not stop to vend within two hundred (200) feet of the property boundary of any public or private school for students within the grade range of kindergarten through twelfth (12th) grade;
 - c. Vend only food and nonalcoholic beverages; and
 - d. Stop to vend only in locations that are no more than twelve (12) inches from a curb or edge of travel lane.
 - (3) Neighborhood mobile food vendors shall:
 - a. Vend only on streets in locations in neighborhood zone districts where parallel parking is allowed;
 - b. Not stop to vend within two hundred (200) feet of the property boundary of any public or private school for students within the grade range of kindergarten through twelfth (12th) grade;
 - c. Vend only during the hours of 10:00 a.m. to 8:00 p.m.;
 - d. Vend only food and nonalcoholic beverages;
 - e. Stop to vend only in locations that are no more than twelve (12) inches from a curb or edge of travel lane; and
 - f. Not stop to vend for more than fifteen (15) minutes in any particular cul-de-sac, or on any particular block face.
 - (4) Outdoor vendors of miscellaneous goods and services shall operate only on lots in nonresidential zone districts.
 - (5) Outdoor vendors of transportation services shall:
 - a. Operate in accordance with all vehicular traffic laws and regulations, including, but not limited to, equipment requirements such as front and back lights and side reflectors;

b. Limit stopping and standing in street rights-of-way or alleys so as to avoid delay or obstruction of traffic;

c. Stop to vend services only in locations that are no more than twelve (12) inches from a curb or edge of travel lane; and

d. Operate so as to avoid obstruction of pedestrian traffic and not on sidewalks.

(6) Stationary vendors shall only vend on private parcels of land or lots within non-neighborhood zone districts, as defined and established in Article 4 of the Land Use Code, and they shall not vend from a private parcel or lot within any neighborhood zone district.

Section 8. That the amendments to Article XIV of Chapter 15 of the City Code set forth in Sections 2 through 7 of this Ordinance shall become effective on January 15, 2017.

Introduced, considered favorably on first reading, and ordered published this 21st day of June, A.D. 2016, and to be presented for final passage on the 15th day of November, A.D. 2016.




Mayor

ATTEST:


City Clerk

Passed and adopted on final reading on the 15th day of November, A.D. 2016.


Mayor

ATTEST:


Chief Deputy City Clerk

