

From: Greeley Municipal Code

CHAPTER 5. OUTDOOR VENDOR LICENSE

Sec. 8-140. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

Commissary means a commissary that is approved as such under the laws and regulations of the state and county that govern retail food establishments.

Commissary-prepared means prepared, cooked and assembled in a commissary, without further preparation, cooking or assembly after leaving said commissary.

Construction mobile food vendor means any outdoor vendor operating in any construction location from a mobile food truck or pushcart with the intent of making temporary stops to service construction workers.

Food means a raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

Food truck rally means a temporary event, operating under a temporary use permit, of more than two outdoor vendors (such as food trucks and carts), held on improved private property with permission of the owner thereof, and only serving pedestrians.

Garage or yard sale means the occasional sale of new or used goods at a residence, which may be held outside and/or within a garage or accessory building and which shall occur no more than two times during a calendar year, for no more than three consecutive days each time, within any consecutive 12-month period.

Mobile food truck means a legal motorized wheeled vehicle or towed wheeled vehicle designed and equipped to serve food. The term "mobile food truck" includes both hot trucks, upon which food is cooked and prepared for vending, and cold trucks, from which only commissary-prepared, ready-to-eat or packaged foods in individual servings are handled.

Mobile food truck vendor means an outdoor vendor who operates from a mobile food truck.

Neighborhood mobile food vendor means an outdoor vendor operating in locations on streets that are in residential use areas from a mobile food truck or pushcart licensed for use in the retail sale or service of only commissary-prepared, ready-to-eat or packaged food in individual servings. Neighborhood mobile food vendor shall not include a vendor operating from a mobile food truck or pushcart on which food is cooked.

Outdoor vendor means 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:

- (1) Vends from private property where the same or similar services or goods are also offered on a regular basis from an indoor location on such premises;
- (2) Vends directly and exclusively to manufacturers, wholesalers or retailers for the purpose of resale;

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- (3) Vends by or on behalf of the city or at an outdoor event sponsored by the city;
 - (4) Vends from property owned by the city, if such vending is pursuant to a concession agreement or other agreement with the city;
 - (5) Vends at a garage or yard sale;
 - (6) Vends outdoor transportation services as a public utility under a certificate of public convenience and necessity issued by the state public utilities commission;
 - (7) Vends food or catering services at an individual private residence for a private event;
 - (8) Vends by or on behalf of any public or private school; or
 - (9) Delivers preordered packaged food.

Outdoor vendor of miscellaneous goods and services means an outdoor vendor who offers miscellaneous goods or services to the public on private property. The term "outdoor vendor of miscellaneous goods and services" shall include, but not be limited to, Christmas tree lots, pumpkin patches and other temporary outdoor holiday sales; vehicle windshield chip repair; temporary car wash events; and temporary nonprofit fundraising sales.

Outdoor vendor of transportation services means an outdoor vendor (not regulated by the state public utility commission) who offers transportation services to the public. The term "outdoor vendor of transportation services" shall include, but not be limited to, vendors of valet parking services; transportation services by pedal power such as pedi-cab or conference bicycle services; horse-drawn carriage rides; or other means of transportation service offered for hire.

Packaged means bottled, canned, cartoned, securely bagged or securely wrapped, whether packaged in a food establishment or a food processing plant. Packaged shall not include a product in a wrapper, carry-out box or other nondurable container used to protect food during the service and receipt of the food by the consumer.

Private property means any location that is not a public right-of-way or public street, alley or sidewalk.

Pushcart means a mobile vending cart, pushcart or trailer that is not motorized or attached to a vehicle for towing and that does not exceed ten feet in length (excluding the length of the trailer hitch, if any), four feet in width or eight feet in height. A pushcart may be used to cook and prepare food for vending or to serve commissary prepared, ready-to-eat or packaged food in individual servings.

Pushcart vendor means an outdoor vendor operating from a pushcart.

Ready-to-eat food means food that is edible and that is in the form in which it is reasonably expected to be consumed without further washing, cooking or additional preparation.

Vend or vending means the sale, attempt to sell or offering to the public of any services, goods, wares or merchandise.

(Code 1994, § 6.09.010; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-141. License required.

- (a) It shall be unlawful for any outdoor vendor to engage in such business within the city without first obtaining a license in compliance with the provisions of this chapter.
- (b) Any person who arranges for or allows one or more outdoor vendors to operate at a special event must obtain a temporary use permit issued under chapter 16 of title 24 of this Code. Upon the issuance of such permit, the outdoor vendors vending at such special event shall be relieved of the obligation to obtain individual licenses under this chapter in order to operate as part of said special event.

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- (c) The application fee to be paid to the city for the issuance, modification or renewal of any license pursuant to this chapter shall be set by the city manager pursuant to section 8-7.

(Code 1994, § 6.09.020; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-142. Application for license; license modifications.

- (a) An application for a license under this chapter shall be submitted to the licensing officer no less than five working days prior to the first day of proposed operation.
- (b) A license may be issued under this chapter for a period of 12 months.
- (c) A request for a modification of a license to add new vehicles, operations or locations or to modify other license restrictions or conditions, as applicable, shall be submitted to the licensing officer and shall meet all of the requirements and be reviewed in the same manner as an application for a license hereunder. The term of a license may not be modified to extend beyond the originally applicable 12-month period.

(Code 1994, § 6.09.030; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-143. Contents of application.

- (a) The application shall be on a form provided by the licensing officer and shall contain the following information:
- (1) Name, address and telephone number of the applicant and, if other than the applicant, name, address and telephone number of the person managing or supervising the applicant's business during the proposed period of operation; and, if a corporation, the state under which it is incorporated.
 - (2) Type of operation to be conducted, including the particular type of service, goods, wares or merchandise to be sold.
 - (3) A description and images of the design of any vehicle, pushcart, kiosk, table, chair, stand, box, container or other structure or display device to be used in the operation by the applicant, including the size and color, together with any logo, printing or sign which will be utilized by the applicant, and the license plate and registration information for any vehicle to be used.
 - (4) The proposed hours and days of operation.
 - (5) Each location on private property for which the application is made.
 - (6) Written consent of the property owner if the location for which the application is made is on private property.
 - (7) Proof of liability insurance as required by section 8-146(g).
 - (8) A plan drawing of each location on private property for which the application is made, showing the location of existing and proposed structures, access, equipment and parking.
 - (9) Documentation of a sales and use tax license in good standing issued by the state department of revenue.
 - (10) For the vending of food, documentation of a mobile retail food establishment license issued by the county.
- (b) The licensing officer may request and require such additional information as said officer deems necessary in order to consider the application and make the required determinations as set forth in this chapter.

(Code 1994, § 6.09.040; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-144. Review and approval.

- (a) The **licensing officer** shall review such application and shall make a determination as to whether the application contains the required information and, if so, whether the issuance of a license is consistent with the requirements of this chapter and compatible with the public interest. In making such determination, the licensing officer shall consider the following factors and may consider other factors the licensing officer considers necessary to protect the health, safety and welfare of the public:
- (1) The degree of congestion of any public right-of-way that may result from the proposed use and the design and location of any operating locations on private property, including the probable impact of the proposed use on the safe flow of vehicular and pedestrian traffic. Factors to be considered shall include, but not be limited to, the width of streets and sidewalks, the volume of traffic and the availability of off-street parking;
 - (2) The proximity, size, design and location of existing street fixtures and furniture at or near the specified locations, including, but not limited to, signposts, lampposts, bus stops, benches, telephone booths, planters and newspaper vending devices;
 - (3) The probable impact of the proposed use on the maintenance, care and security of the specified location;
 - (4) The recommendations of the community development director, insofar as the specified locations may affect the operation of those service areas, based upon the factors recited herein; and
 - (5) The level and types of outdoor vendor activity already licensed for the specific locations proposed in the application, and the impacts that the issuance of a license may have on surrounding properties.
- (b) The licensing officer shall also obtain the determination of the community development director as to whether the proposed use conforms to the requirements of the land use code as applied to any specified location. If the community development director determines the proposed use is not in compliance with the requirements of the land use code, the application shall not be approved.
- (c) If the licensing officer determines that the issuance of a requested outdoor vendor license would be consistent with the requirements of this chapter, with or without additional conditions, the licensing officer shall issue the license, subject to any such conditions. If the licensing officer determines that the issuance of an outdoor vendor license would not be consistent with the requirements of this chapter, the licensing officer shall notify the applicant of the officer's determination in writing, with an explanation of the reasons for such denial.

(Code 1994, § 6.09.050; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-145. Contents of license.

In addition to the licensee's name, address and telephone number, the license shall contain the following:

- (1) The type of operation;
- (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;

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- (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) For mobile food trucks, the vehicle's license plate number;
 - (7) A statement that the license is personal to the vendor 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;
 - (9) A statement that the license is subject to the provisions of this chapter;
 - (10) Any conditions based on the review and approval, as determined by the licensing officer.

(Code 1994, § 6.09.060; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-146. 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 on the face of the license.
- (b) No such vehicle, structure or device referred to in subsection (a) of this section shall be located:
 - (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 as set forth in article XII of chapter 1 of title 16 of this Code;
 - (3) Upon a public right-of-way, or public street, alley or sidewalk within a town or other town property unless vending is pursuant to a concession agreement or other agreement with the town;
 - (4) 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.
- (c) No licensee shall operate during the hours of 3:00 a.m. to 5:00 a.m. and must remove the vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device from the location.
- (d) No licensee shall park or operate at any public or private location for more than eight hours in a 24-hour period.
- (e) Every licensee must obtain the written consent of the property owner and approval by the city to operate on private property.
- (f) No licensee may provide drive-in or drive-through services to the vending vehicle.
- (g) 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 set annually by the Town Manager in writing 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.
- (h) Each licensee shall pick up and dispose of any paper, cardboard, wood or plastic containers, wrappers or any litter which is deposited within 25 feet of the designated location or within 25 feet of the point of any sale or

transaction made by the licensee if the radius of the designated location exceeds 25 feet. The licensee shall carry a suitable container for the placement of such litter by customers or other persons.

- (i) Each licensee shall maintain in safe condition any vehicle, structure or device as described in subsection (a) of this section, 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.
- (j) No licensee shall leave unattended any vehicle, structure or device as described in subsection (a) of this section, 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.
- (k) Each licensee shall prominently display the license issued hereunder in a location readily visible to the public on each vehicle, structure or device as described in subsection (a) of this section.
- (l) Each licensee operating in an on-street location must serve the public only from the sidewalk or curbside and not from the street or adjacent parking spaces.
- (m) 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, Town 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.
- (n) Outdoor vendors of any specified type may be licensed to operate on any lot, tract or parcel of land, but shall not displace minimum required parking by zoning except as determined in individual cases by the community development director, except that this limitation shall not apply to temporary use permits provided for in chapter 16 of title 24 of this Code.
- (o) 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.
- (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 nonresidential use areas or on streets in locations in nonresidential use areas where parallel parking is allowed;
 - b. Vend only food and nonalcoholic beverages; and
 - c. Permanently affix or paint any signage on the mobile food truck, with no signs/banners in or alongside street rights-of-way or across roadways.
 - (2) Pushcart vendors shall:
 - a. Vend only on lots in nonresidential use areas or on streets in locations in nonresidential use areas where parallel parking is allowed;
 - b. Not stop to vend within 300 feet of the property boundary of any public or private school for students within the grade range of kindergarten through 12th grade;
 - c. Vend only food and nonalcoholic beverages; and
 - d. Stop to vend only in locations that are no more than 12 inches from a curb or edge of travel lane.
 - (3) Construction mobile food vendors shall:

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- a. Only operate in areas where new construction (as defined in section 24-5) is taking place;
 - b. Not stop to vend for more than two hours at any one time;
 - c. Not stop to vend in residential zones that have less than three single-family dwellings being constructed in a 200-foot radius;
 - d. Stop to vend only in construction locations that are no more than 12 inches from a curb or edge of the travel lane, or in designated off-street parking areas; and
 - e. Vend only during the hours of 6:00 a.m. to 8:00 p.m. in residential use areas.
- (4) Neighborhood mobile food vendors shall:
- a. Vend only on streets in locations in residential use areas where parallel parking is allowed;
 - b. Vend only during the hours of 10:00 a.m. to 8:00 p.m.;
 - c. Vend only food and nonalcoholic beverages;
 - d. Stop to vend only in locations that are no more than 12 inches from a curb or edge of travel lane; and
 - e. Not stop to vend for more than 15 minutes in any particular cul-de-sac, or on any particular block face.
- (5) Outdoor vendors of miscellaneous goods and services shall operate only on lots in nonresidential use areas.
- (6) Outdoor vendors of transportation services shall:
- a. Operate in accordance with all local, federal and state traffic laws and regulations;
 - 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 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.

(Code 1994, § 6.09.070; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-147. Restrictions due to changed conditions.

The licensing officer may suspend the vending operation of any licensee or all licensees at any designated location if the licensing officer determines that the licensed activity in that location will no longer meet the requirements of this chapter due to construction activity or other changed conditions affecting public health, safety or welfare. In such event, the licensing officer shall provide written notice to the affected licensee or licensees, and the authorization to operate in such location shall not be reinstated until such time, if at all, as the licensed operations may be safely resumed in the judgment of the city manager. Any such suspension shall not extend the term of the affected license or licenses.

(Code 1994, § 6.09.080; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Sec. 8-148. Revocation or nonrenewal.

In addition to those provisions set forth in sections 8-22 and 8-23, the licensing officer may temporarily suspend, or permanently revoke and shall not renew, any license issued pursuant to this chapter if the licensing officer determines that any of the following have occurred:

- (1) Failure to remit any sales and use tax due;
- (2) Failure to operate or supervise operations conducted under the license, so as to reasonably ensure that such operation is in compliance with the terms of the license and with the provisions of this chapter; or
- (3) Authorizing, condoning or knowingly tolerating any unlawful vending operations or any operation conducted in such a manner as to constitute a menace to the health, safety or general welfare of the public.

(Code 1994, § 6.09.090; Ord. No. 36, 2016, § 2(exh. A), 12-20-2016)

Secs. 8-149—8-179. Reserved.