

Title 5 BUSINESS LICENSES, TAXES AND REGULATIONS

Chapter 5.68 MOBILE VENDING

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5.68.010 Findings and purpose.

The city council finds and declares as follows:

A. To protect the public health and safety, promote fair economic competition and ensure safe pedestrian and motorist traffic, the city needs equitable mobile vending regulations.

B. Ordinance 554, adopted by city council on June 13, 1995 and effective on October 1, 1995, permitted motorized and nonmotorized mobile vending units on private property. These units were subject to minimal regulations principally in the form of requiring business licenses and imposing site-specific daily operating hours.

C. The city has observed numerous violations by motorized mobile vendors of the requirements of Ordinance 554.

D. Motorized and nonmotorized mobile vending causes safety and sanitary hazards on private property, contributes to traffic and pedestrian congestion, contributes to litter accumulation and causes planning and design problems, especially those motorized mobile vendors that become a continual, stationary enterprise. Further, nonmotorized vending from sidewalks, except for continuously moving pedestrian carts, causes safety and sanitary hazards and contributes to pedestrian congestion.

E. Mobile vending between the hours of eight p.m. and six-thirty a.m. causes public safety problems inasmuch as some mobile units are poorly lit or operate on streets or properties which have inadequate lighting or interfere with appropriate line of sight distances affecting the safety of vehicular and pedestrian travel. (Ord. 566 § 1, 1996; Ord. 554 § 1, 1995)

5.68.020 Definitions.

As used in this chapter, the following terms are defined in this section:

A. "Mobile unit" means any apparatus (i.e., truck, trailer, cart, wagon) or structure not permanently fixed to a permanent foundation and which may be moved under its own power, pushed or pulled by hand, towed by a motor vehicle or carried upon or in a motor vehicle or trailer. A mobile unit does not include news racks nor vending machines but does include produce stands, mobile food preparation units and vehicles as those terms are defined in the [Health and Safety Code](#).

B. "Motorized mobile units" means a mobile unit which may be moved under its own power. An example would be catering and ice cream trucks.

C. "Nonmotorized mobile units" means a mobile unit which may not be moved under its own power. An example would be pedestrian carts and stands.

D. "Public property" means and includes without limitation alleys, parks, and interior and exterior areas of public buildings. Public property does not include city streets where parking is permitted or sidewalks.

E. "Pedestrian cart" means a special type of nonmotorized unit which contains one or more wheels, does not exceed four feet in height and three feet in width and is readily moved by a handle(s)

F. "Private property" or "site" means an improved private parcel or lot of real property.

G. "Vending" means the business of selling, offering for sale, displaying or causing to be sold, for cash or consideration, any item including without limitation, food, beverage, goods, services and merchandise.

H. "Vendor" means any person, including without limitation an employee or agent, partnership or corporation, who is in the business of vending. A vendor is a peddler, as that term is defined in Section [5.48.020](#). (Ord. 566 § 1, 1996; Ord. 554 § 1, 1995)

5.68.030 Certain mobile vending is prohibited.

No person shall conduct vending from a motorized mobile unit upon private property, public property and any sidewalk within the city. No person shall conduct vending from a nonmotorized mobile unit upon any public property, street and sidewalk within the city. Violations of this section are punishable as misdemeanors in accordance with state law. (Ord. 566 § 1, 1996)

5.68.040 Business license required.

A. It shall be a misdemeanor to conduct vending from a nonmotorized mobile unit upon private property within the city, from a pedestrian cart upon any sidewalk, or from a motorized mobile unit upon city streets where parking is permitted without first obtaining a business license in accordance with the provisions of Title 5 and particularly Chapter 5.48 and this Chapter 5.68.

B. A business license may be issued for nonmotorized vending upon private property, for pedestrian cart vending upon any sidewalk, and for motorized vending upon city streets where parking is permitted subject to the mobile vendor's compliance with the regulations herein.

C. The provisions of Chapters 8.04, food-handling establishments, and 8.08, restaurants, shall not be applicable to mobile units. (Ord. 566 § 1, 1996; Ord. 554 § 1, 1995)

5.68.050 Application procedure.

A. The finance department shall issue a business license for mobile vending; provided, the applicant is in compliance with all standards of this chapter. Any aggrieved applicant may submit a written appeal to the city council within thirty days of a determination by the finance department. All applications shall be submitted on a form prepared by the finance department, accompanied by payment of the business license fee and surtax of this Title 5 as periodically fixed by the city council.

B. For nonmotorized vending upon private property, the application shall include the signature of the owner of the site upon which the applicant proposes to locate the nonmotorized mobile unit indicating the property owner's permission to use the site for nonmotorized mobile vending and the nature of the improvements on the site. If the applicant proposes to conduct motorized vending in legally permitted parking areas on city streets or pedestrian cart vending from sidewalks, the application shall include the street addresses of the proposed vending.

C. For motorized mobile units, the application shall include proof of the operator's valid driver's license and automobile or commercial vehicle insurance.

D. Where applicable, the applicant shall provide certified copies of valid food handling or other permits or certifications required by the Contra Costa County Health Department pursuant to the California Uniform Retail Food Facilities Law ([Health and Safety Code § 27500 et seq.](#)) as well as records of any inspections conducted by the county in connection with the applicant's vending operations. (Ord. 566 § 1, 1996; Ord. 554 § 1, 1995)

5.68.060 Standards.

All mobile vending operations shall comply with the following standards with any violations of such standards punishable as misdemeanors:

A. Vending shall not be conducted between the hours of eight p.m. and six-thirty a.m.

B. Nonmotorized mobile units shall be permitted for a maximum of four hours per day per site, and each site must be improved with a permitted structure or structures. A maximum of one nonmotorized mobile unit shall be permitted per each site per day.

C. Motorized mobile units lawfully permitted to conduct vending from city streets shall comply with the parking and traffic regulations of the state and the city, including without limitation the curb parking requirements of [Vehicle Code](#) Section 22502(a) and the requirement not to impede traffic set forth in [Vehicle Code](#) Section 22400.

D. Motorized mobile units lawfully permitted to conduct vending from city streets shall not conduct nor solicit vending from pedestrians or vehicles in the path of street vehicular travel.

E. Pedestrian carts are permitted upon sidewalks so long as they are not stationary and do not impede pedestrian traffic nor solicit vending from vehicles or pedestrians in the path of street vehicular travel.

F. Mobile vendors shall at all times be in compliance with all regulations of the State Uniform Retail Food Facilities Law, Contra Costa County Health Department and the Brentwood Municipal Code.

G. Vending of any alcoholic beverages or controlled substances is prohibited in accordance with state laws.

H. Each mobile unit shall possess and at all times display in conspicuous view certified copies of its current city business license as well as its county food handling permit, where applicable.

I. A mobile vendor's business license is not transferable.

J. At all times, motorized mobile vendors shall have access to handwashing and restroom facilities which are available to employees and customers of the mobile vendor. Access to the mobile vendor, its customers and employees shall be demonstrated by a letter from the owner of the handwashing and restroom facilities. The letter shall be displayed on the motorized mobile vendor in a conspicuous location for public viewing. Access to the handwashing and restroom facilities must be at all times within sixty meters (two hundred feet) of the mobile vendor's operation(s). Such distance shall be measured taking into consideration only such lawful passenger routes as permitted by traffic control devices, markings and sidewalks. (Ord. 603 § 1, 1998; Ord. 566 § 1, 1996; Ord. 554 § 1, 1995)

5.68.070 Enforcement.

Violations of this chapter shall be prosecuted criminally as infractions, or through civil means such as by administrative citation, nuisance abatement, or injunctive relief. Each day a violation continues is deemed a separate offense. (Ord. 603 § 2, 1998; Ord. 566 § 1, 1996; Ord. 554 § 1, 1995)

5.68.080 Severability.

If any provision, clause, sentence or paragraph of this chapter, or application thereof to any person or circumstances, be held invalid by a court of law, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications of the chapter and, therefore, the provisions of this chapter are declared to be severable. (Ord. 566 § 1, 1996; Ord. 554 § 1, 1995)

Contact:

City Clerk's Office: 925-516-5440

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