

Chapter 5.06

ITINERANT MERCHANTS AND VENDORS

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5.06.010 **License Required.** It shall be unlawful for an itinerant vendor to engage in business within the City of Benton City except when licensed as a stationary or mobile vendor as defined in Section 5.06.020, in compliance with the provisions of this Chapter. A separate license shall be required for each location of any stationary vendor and for each vehicle or other conveyance engaged by a mobile vendor. (Ord. 891, September 2011)

5.06.020 **Definitions.**

- A. "Applicant" means any person, firm, or corporation desiring to secure a license as a stationary or mobile vendor making application to the City.
- B. "Concessionaire" means a person, firm or corporation operating or maintaining a concession stand for the sale of food, in the public parks, in the City, or on other public property, in accordance with an agreement or franchise therefore.
- C. "Food" shall have its usual and ordinary meaning, and shall include all items designed for human consumption.
- D. "Itinerant Vendor" shall mean any person, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of the City or not, who engages in a business of selling and delivery goods, wares, food or merchandise of any kind or description, who conducts such a business outside of a permanent structure affixed to real property. A person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such

temporary business in connection with, as part of, or in the name of any local dealer, trader, merchant or auctioneer.

- E. "Mobile Vendor" means an itinerant vendor who conducts business from a vehicle or other conveyance upon public streets, sidewalk, alleys, or other public ways of the City.
- F. "Stationary Vendor" means an itinerant vendor who conducts business from a vehicle or other conveyance, or in any format located in a parking lot or open space area, upon privately or publically owned property, but not on a public street, sidewalk, alley or public way of the City. (Ord. 891, September 2011)

5.06.030 **Exemptions.** The provisions of this Chapter shall not be construed to apply to the following:

- A. Persons selling only fruits, vegetables, berries, eggs or any farm produce or edibles raised, gathered, produced or manufactures by such persons in the State of Washington.
- B. Charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 USC 501(c)(3) or other similar civic, charitable or nonprofit organizations.
- C. Every honorably discharged Veteran who presents a Certificate of Honorable Discharge to the City Clerk may obtain a license without costs or fees of any kind consistent with RCW 73.04.050 and RCW 7.04.060.
- D. Vendors participating in permitted special events under the license of the event sponsor. (Ord. 891, September 2011)

5.06.040 **Application.** Applicant shall make application to the City on forms to be provided by the City. Such application shall provide:

- A. The names or names and address of the applicant, vehicle license numbers of all vehicles from which the applicant proposes to conduct business; description of the general types of goods, wares, merchandise or food proposed to be sold by the applicant; the place or places where the applicant proposes to engage in business.
- B. Each application shall be accompanied with the license fee as provided for in this Chapter.
- C. Each license application for a stationary vendor shall be accompanied with the following information to establish compliance with Section 5.06.100 and other applicable codes:
 - 1. A notarized written authorization from the business owner to conduct the applicant's business at the place so noted on the application.
 - 2. A statement explaining the method of trash and litter disposal being proposed by the vendor.

3. A drawing of a scale not greater than 50 feet per inch and not less than 10 feet per inch, which drawing shall depict the following information:
 - a. The portion of the property to be occupied by the business.
 - b. The portion of the property to be used for automobile parking and the number of automobiles accommodated in said area.
 - c. The location of driveways providing ingress and egress to the property.
 - d. The location of existing building and structures located on the property noting the use of each building or structure so identified.
- D. Such other information as may be required by the City. (Ord. 891, September 2011)

5.06.050 **Investigation and Determination.** Upon receipt of such application the Mayor, or the Mayor's designee, shall cause such investigation of such person or persons business responsibility to be made as is deemed necessary to the protection of the public good and shall determine compliance with standards and requirements of this Chapter. An application shall be denied by the Mayor, or the Mayor's designee, upon written findings that the applicant's business responsibility is unsatisfactory or that the proposed business activity will violate any applicable law, rule or regulation. (Ord. 891, September 2011)

5.06.060 **Fees.**

- A. Prior to issuance of a license, the applicant shall pay the required fee to the license officer. Merchant and vendor license fee is set by the most current City Fee Schedule Resolution.
- B. Stationary Vendors. A separate license and license fee shall be required for each location of a stationary vendor. (Ord. 891, September 2011)

5.06.070 **Expiration of License.** Any license issued under the provisions of the Chapter shall expire thirty (30) days after the date of issuance thereof unless a specific date is fixed therein. (Ord. 891, September 2011)

5.06.080 **Exhibition of License and Transfer.**

- A. Any license issued under this Chapter shall be posted conspicuously at the place of business authorized therein.
- B. Any license issued under this Chapter shall not be transferred to any other person, firm, corporation or location. (Ord. 891, September 2011)

5.06.090 **Health Regulation.** All food vendors shall comply with all laws, rules and regulations regarding food handling, and all vehicles used for the sale of food shall comply with all the laws, rules and regulations respecting such vehicles as established by the Benton-Franklin Health Department and as set forth in the Benton City Municipal Code. (Ord. 891, September 2011)

5.06.100 **Stationary Vendor Standards.** All stationary vendors licensed under this Chapter shall conform to the following standards:

- A. No stationary vendor shall be licensed for a location in any residential zoning district as defined in Title 20.
- B. Stationary vendors shall be licensed only at those sites on which there is a permanent business operating and licensed under Title 5.
- C. No stationary vendor shall locate his or her vehicle, other conveyance, or temporary stand within twenty feet of any public right-of-way or within twenty feet of the intersection of any public right-of-way or private driveway.
- D. No signs or signage shall be permitted other than that which can be contained on the vehicle or conveyance utilized to sell food.
- E. No vehicle, other conveyance or temporary stand shall be located closer than twenty feet from any building or structure on the licensed property or adjoining property.
- F. No vehicle, other conveyance or temporary stand shall locate closer than fifty feet from flammable combustible liquid or gas storage and dispensing structures.
- G. All stationary vendors shall place at least one 30 gallon garbage receptacle upon the site of business for customer use.
- H. Licensed stationary vendor sites shall be cleaned of all debris, trash and litter at the conclusion of daily business activities.
- I. All merchandise, goods, wares or food shall only be displayed or offered for sale from the vendors conveyance, except that larger items, such as blankets, flags, rugs, statues, furniture and other crafts, may be displayed and sold without a conveyance for a period not to exceed 3 days, however each 3 day period may not occur more frequently than once per month and must be separated by not less than five (5) calendar days.
- J. All vehicles, other conveyances or temporary stands shall be equipped with at least one 2A-40 BC fire extinguisher.
- K. No stationary vendor shall be licensed to locate a vehicle, other conveyance, or temporary stand within 250 feet from another stationary vendor except where vendors are separated by a public street.
- L. No stationary vendor shall utilize any arrangement of tents, canopies, tarps, carpeting, tables, or chairs to create an area of congregation or sit-down eating. Except that any vehicle or stand used by the stationary vendor may utilize one awning for the purposes of providing weather cover for immediate customers making purchases at the stationary vendor's location. (Ord. 891, September 2011)

5.06.110 **Mobile Vendor Standards.** All mobile vendors licensed under this Chapter shall conform to the following standards:

- A. Geographical Restrictions. No mobile vendor shall sell or vend from his or her vehicle or conveyance:
1. Within four hundred (400) feet of any public or private school grounds during the hours of regular school session, classes, or school related events in said public or private school, except when authorized by said school; or
 2. Within three hundred (300) feet of the entrance to any business establishment offering as a main featured item or items similar products for sale which is open for business; or
 3. Within three hundred (300) feet of any restaurant, cafe, or eating establishment which is open for business; or
 4. Within three hundred (300) feet of any public park of the City where any City authorized concession stand is located during times other than during the course of a public celebration or special event except as approved by the Mayor, or the Mayor's designee.
 5. Within three hundred (300) feet of any public park of the City where any City authorized concession stand is located during the course of a public celebration or special event when nonprofit organizations are permitted to engage in the sale of merchandise and food in such park; or
 6. Within any one block for more than one (1) hour in any four (4) hour period. Except this shall not apply in those situations where the mobile vendor is serving organized and sanctioned community sponsored ball games at public parks and schools provided there is no City approved concession in the park or at the school.
- B. No mobile vendor shall conduct business so as to violate the traffic and sidewalk ordinances of the City as now in effect or hereafter amended.
- C. No mobile vendor shall obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where food is being sold or offered for sale.
- D. No customer shall be served on the street side of the mobile unit. All service must be on the curb side when the mobile unit is on or abutting a public street.
- E. All mobile vendors shall provide garbage receptacles for customer use.
- F. No mobile vendor shall locate his or her vehicle or other conveyance in such a manner as to cause a traffic hazard, including but not limited to, locating within 20 feet of any public intersection or private driveway.
- G. At the conclusion of business activities at a given location the mobile vendor shall clean all the public way surrounding his or her vehicle of all debris, trash and litter generated by the vendors business activities.
- H. All mobile vendors preparing food by cooking, frying or other means shall

be equipped with at least one 2A-40—BC fire extinguisher.

- I. All mobile vendors shall conclude daily business activities at sunset. (Ord. 891, September 2011)

5.06.120 **Revocation of License.** Any license issued pursuant to this Chapter may be revoked, in writing, by the Mayor, or the Mayor's designee, for any of the following causes:

- A. Any fraud, misrepresentation or false statement contained in the application for license.
- B. Any fraud, misrepresentation or false statement made in connection with the selling of products.
- C. Any violation of this chapter.
- D. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
- E. Conducting the business licensed under this Chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. (Ord. 891, September 2011)

5.06.130 **Appeal.** Any person aggrieved by the denial of an application for a license or by the revocation of a license as provided for in this Chapter, shall have the same rights of appeal as set forth in Chapter 5.04. (Ord. 891, September 2011)

5.06.140 **Penalty.** Any person who violates any provision of this Title shall be guilty of a civil infraction. Each violation committed, or each day a violation is permitted to continue, constitutes a separate offense.

Fines shall be assessed at \$100.00 for the first offense; and a fine of not more than \$500 for any offense thereafter. (Ord. 891, September 2011)