



Outdoor Vendor Regulations

Last Amended with Ord. No. 2013-75 on August 27, 2013

SEC. 601.16 OUTDOOR AND MOBILE FOOD VENDORS

(Ord. No. 2005-128, 07-14-05, Amended Ord. No. 2007-129, 11-13-07)

A. Purpose and Intent.

The regulations contained herein are not intended to prohibit or hamper speech that is protected by the First Amendment of the United States Constitution, but merely to regulate specific activities that are commercial in nature. It is the intent of these regulations:

1. To serve and protect the health, safety and welfare of the general public;
2. To establish a uniform set of rules and regulations that are fair and equitable;
3. To provide economic development opportunities to small entrepreneurs in the city; and,
4. To promote stable vendors who will enrich the city's ambiance and be assets to public security.

B. Permit Required

1. **Applicability.** It shall be unlawful for any person to engage in the business of outdoor vending or mobile food vending, as defined in Article 201 Definitions, unless he/she has first obtained a vending permit from the Planning Department, except as exempted in *C. Exemptions* below. All permits shall be issued according to the regulations herein.
2. **Application for Permit.** Applicants may request a Vending Permit for either (1) outdoor vending or (2) mobile food vending. The application for a vending permit shall contain all information relevant and necessary to determine whether a particular permit may be issued, including, but not limited to:
 - a. The applicant's full name, current address, telephone number and proof of identity, together with a full-face photograph of the applicant, not less than two inches square nor more than three inches square.
 - b. A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale.
 - c. Site plan showing proposed location and distances in compliance with the location requirements in Subsection D.3.
 - d. Detailed scaled drawing, or photo, of the conveyance showing dimensions and location of any proposed signs.
 - e. Written consent of the property owner, if applicable.
 - f. Proof of notification of adjacent property owner (i.e. certified mail receipt or letter from the owner), if outdoor vendor is adjacent to a residential district.
 - g. If the applicant is engaged in the sale of food or beverages, a copy of the Benton County Health Department Inspection certificate shall be provided.
 - h. If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation of employment.
 - i. If a motor vehicle is to be used, the motor vehicle make, year, model and license number.
 - j. Proof of registration to pay A&P tax.
 - k. In addition to the information listed above, mobile food vendors shall also provide:
 - l. Proof of current driver's license for all drivers.

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- I. An Arkansas State Police Background Check conducted bi-annually.
- II. Driver's license history report that shall be submitted annually.

3. **Fee.** The applicant shall pay the fee as adopted from time to time by City Council.

4. **Issuance of Permit.**

- a. The applicant shall be notified in writing by the Community Development Director or his/her designee of the City's decision to issue or deny the vending permit not later than thirty (30) days after the applicant has filed a completed application with the Planning Department.
- b. Each permit shall show the name and address of the vendor, the type of permit issued, the kind of goods to be sold, the amount of the permit, the date of issuance, the permit number, an identifying description of any motor vehicle or conveyance used by the vendor plus, where applicable, the motor vehicle registration number and a photograph of the vendor not less than two inches square nor more than three inches square. Each permit shall also show the expiration date of the permit.
- c. All permits issued under this section shall be both non-assignable and non-transferable.

5. **Display of Permit.** Any permit issued by the Community Development Director or his / her designee shall be carried with the vendor whenever he/she is engaged in vending. Certificate of Health Inspection from the Benton County Health Department shall also be properly and conspicuously displayed at all times during the operation of the vending business.

6. **Expiration and Renewal.**

- a. **Permanent Permit.** All permanent vending permits expire annually at midnight on December 31st. A vending permit may be renewed, provided an application for renewal and permit fees are received by the City no later than the expiration date of the current permit. Any application received after that date shall be processed as a new application. The Community Development Director or his / her designee shall review each application for renewal, and upon determining that the applicant is in full compliance with the provision of these regulations, shall issue a new permit.
- b. **Temporary permit.** All temporary permits issued shall be valid only for the time period established on the permit.

7. **Notification of Name or Address Change.** All vendors shall assure that the current and correct name, residence address and mailing address are on file with the Planning Department. Whenever either the name or address provided by a permitted vendor on an application for a vending permit changes, the vendor shall notify the Community Development Director in writing within 60 days of such change and provide the same with the name change or address change.

C. Exemptions.

1. **Exempt activities.** The provisions of the ordinance do not apply to:
 - a. Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment, or transfer.
 - b. The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paperbound books.
 - c. The distribution of free samples of goods, wares and merchandise by any individual from his person.
 - d. Sidewalk sales lasting no longer than three (3) consecutive days, so long as at least 4' of sidewalk remains clear for pedestrian access. No more than three sidewalk sales per business shall be permitted per calendar year.

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- e. Temporary sales to benefit non-profit organizations and conducted on private property. Such sales shall be conducted no longer than five consecutive days.
- f. Merchants participating in outdoor markets or special events organized or administered by the City of Bentonville or Downtown Bentonville, Inc. Such merchants shall be approved by the organizing or administering agency. (Ord. No. 2009-77, 8-11-09)
- h. Children's lemonade stands.

2. **Claims of exemption.** Any person claiming to be legally exempt from the regulations set forth herein, or from the payment of a permit fee, shall cite to the Community Development Director or his/her designee, the statute or other legal authority under which exemption is claimed and shall present proof of qualification of such exemption.

D. Outdoor Vending. The following requirements shall apply to outdoor vending at fixed locations.

1. **Private Property.**

a. **Single Vendor.**

- I. **Zoning Districts.** Outdoor vendors shall be permitted on developed private property only in commercial, DC, or industrial zoning districts. Outdoor vendors are prohibited in residential zoning districts.
- II. **Number of Vendors.** Only one (1) outdoor vendor shall be permitted per lot. However, if more than one vendor is proposed for a single lot, it shall be considered an outdoor vendor park and shall meet the requirements for Outdoor Vendor Park below.
- III. **Permission required.** Outdoor vendors shall first obtain written permission from the property owner prior to submitting for an application.
- IV. **Size restrictions.** The area occupied by a vendor shall not exceed 900 sq. ft. and shall be located on hard surface paving.

b. **Outdoor Vendor Park.**

- I. **Zoning Districts.** Outdoor vendor parks shall be permitted on private property as a conditional use in commercial, DC, Downtown Core and industrial zoning districts. Outdoor vendors parks are prohibited in residential zoning districts.
- II. **Review Criteria.** The Planning Commission shall review the application based on the specific circumstances of the proposed vendor park including the location of the park, the size of the lot where the park is located, the types of surrounding land uses and the proximity to the park, parking, and any other potential impacts on public health, safety and welfare. The Planning Commission shall determine the number of outdoor vendors permitted within the outdoor vendor park.
- III. **Requirements.** The property owner proposing an outdoor vendor park may be required to make any of the following necessary improvements to the property in order to meet the city development codes and be approved for this semi-permanent use:
 - a. Make any improvements necessary to the site to meet the requirements of Article 1400 Landscaping, Screening and Buffering of the Subdivision Code.
 - b. Make any improvements necessary to the site to meet the requirements of Article 501 Parking and Loading of the Zoning Code. This may include paving, striping and the construction or designation of handicapped parking spaces.
 - c. Make any necessary improvements to provide permanent utility connections for each outdoor vending unit in the outdoor vendor court. This shall include permanent water, sanitary sewer and electricity connections.

- d. Make any improvements necessary to ensure safe pedestrian and vehicular access to the site. This may include sidewalk and curb-cut improvements.
- e. Individual outdoor vendor units operating in an outdoor vendor park shall obtain an outdoor vendor permit and shall meet all of the applicable requirements.

2. **Public Property / Right-of-Way.** Outdoor vending on public right-of-way and public property shall only be permitted in special outdoor vendor districts as identified herein or otherwise established by City Council.

a. **Town Square Outdoor Vendor District.**

- I. **District Boundaries.** A special outdoor vendor district is created for an area around the Bentonville Town Square, between NE/NW 3rd St. to the north and SE/SW 3rd St. to the south, and NW/SW A St. to the west and NE/SE B St. to the east.
- II. **Locations.** Vending locations within the Town Square Outdoor Vendor District shall be approved by the Planning Department based on the location restrictions in section D.3 below. A vendor shall be permitted no more than one vending permit in this district. Vendors with a valid permit for a specific location shall be permitted to continue at that location for so long as the permit under this section is continuously issued and does not expire or is not revoked pursuant to this section.
- III. **Vending Stand.** Outdoor vendors in the Town Square Outdoor Vendor District shall be limited to hand carts, push carts or peddle carts with a dimension that shall not exceed 8 feet in length, 4 feet in width, and 6 feet in height, (exclusive of canopies or umbrellas). Vending stands shall be located on hard surface paving.
- IV. **Special Events.** Outdoor vendor permits issued are invalid during special events coordinated by Downtown Bentonville, Inc. Downtown Bentonville, Inc. may provide written permission for the outdoor vendor to continue to conduct business during the special event, but may request the vendor to relocate or adjust operations to within a close reasonable proximity of the assigned location to accommodate any logistical or technical necessity. A copy of such letter shall be provided to the Planning Department.

G. Size Restrictions.

1. **Location Restrictions.** No outdoor vendor shall be permitted to operate in the following areas:
 - a. Within an R (Residential) Zoning district.
 - b. Within 10 feet of any street intersection or pedestrian crosswalk.
 - c. Within 10 feet of any driveway, loading zone or bus stop.
 - d. In any area within 15 feet of a building entrance.
 - e. On the median strip of a divided roadway unless the strip is intended for use as a pedestrian mall or plaza.
 - f. In the Town Square Outdoor Vendor District, against display windows of a fixed location business, unless written permission is given by the business owner.
 - g. Any area within 100 feet of a hospital, college, university, elementary school, middle school or high school.
 - h. Within 10 feet of any fire hydrant or fire escape.
 - i. Within 10 feet of any parking space or access ramp designated for persons with disabilities.
 - j. In a public parking space or public parking lot.
 - k. Within 25 feet of any bus stop sign.
 - l. Within 50 feet of driveway to police or fire station.
 - m. Within 50 feet of principal public entrance to food service business not owned by vendor.
 - n. Any area that obstructs pedestrian traffic. Must provide four (4) feet clear passageway for pedestrians at all times.
 - o. Vacant or undeveloped property.
 - p. Any location other than the assigned location as expressly described on the permit.
 - q. City public park property.
 - r. On grass.

2. **Hours of Operation.** Outdoor vendors shall be allowed to engage in the business of vending only between the hours of 7 a.m. and 10 p.m.

E. Mobile Food Vending. The following requirements apply to mobile food vendors:

1. **Equipment Requirements.** All mobile food vendor conveyances shall have the following features:
 - a. Convex mirror mounted on the front of the vehicle such that the driver in his normal seating position can see the area in front of the truck obscured by the hood.
 - b. "SLOW CHILDREN CROSSING" sign printed in six inch black letters on yellow background on both the front and back of the vehicle.
 - c. Passenger side mirror.
 - d. Business name, address and phone number printed in 2" letters on each side of the vehicle.
 - e. Trash receptacle.
 - f. "Slow" signal arm that can be extended horizontally from the left side of the truck. This arm shall be yellow with six inch black lettering and two alternating flashing amber lights three to five inches in diameter. The bottom of the signal arm shall be approximately 42" above the roadway or street.
 - g. The vehicle shall be lawfully parked or stopped before vending can take place.

2. General Requirements

- a. "Slow" signal arm shall be deployed when vehicle is stopped for vending purposes.
- b. The vehicle shall not be stopped for vending purposes when no customers are present.
- c. Vending shall take place from the right side of the vehicle.
- d. Vending shall not occur with a customer standing within the roadway.
- e. Vending shall only include prepackaged products.
- f. Vehicles shall not be operated in reverse to accommodate a customer.

3. Location Restrictions

- a. Mobile food vending shall only take place on streets where on-street parking is allowed.
- b. No vending shall be permitted within 500 feet of a school while school is in session and one hour before and after school is in session.

4. **Hours of Operation.** Mobile food vendors shall be allowed to engage in the business of vending only between 10 am and 30 minutes before sunset.

F. Littering and Trash Removal.

1. Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their business. All trash or debris accumulating within 25 feet of any vending stand shall be collected by the vendor and deposited in a trash container.
2. Persons engaged in food vending shall provide a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

G. Prohibited Conduct.

No person authorized to engage in the business of vending under these regulations shall do any of the following:

1. Unduly obstruct pedestrian or motor vehicle traffic flow, except for up to 20 minutes to load and unload vending conveyance and/or vending merchandise.

2. Obstruct traffic signals or regulatory signs.
3. Stop, stand or park any motor vehicle or any other conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.
4. Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public way overnight.
5. Use any conveyance that when fully loaded with merchandise cannot be easily moved and maintained under control by the permittee, his employee or an attendant.
6. Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention. However, mobile food vendors are permitted to play non-vocal music within the regulations of the City of Bentonville noise ordinance, but shall not do so within 500 feet of hospitals, schools or churches.
7. Conduct his/her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.
8. Use, install or display any signage that is not in compliance with Article 801 of the Zoning Code or lighting that is not in compliance with Sec. 1100.11 Outdoor Lighting of the Subdivision Code.
9. Altering vehicle to allow for additional signage.
10. No vending conveyance or other item related to the operation of a vending business shall be located on any city sidewalk or other public way during non-vending hours. Nor shall any mobile food vehicle be parked, stored or left overnight other than in a lawful parking place.
11. Run hoses, cords or other apparatus across a pedestrian pathway.

H. Suspension and Revocation of Permit.

1. **Conditions for Suspension / Revocation.** In addition to the penalties punishable as set forth in Bentonville Municipal Code Section 1.32.01, any permit issued under these regulations may be suspended or revoked for any of the following reasons:
 - a. Fraud, misrepresentation or knowingly false statement contained in the application for the permit.
 - b. Fraud, misrepresentation or knowingly false statement in the course of carrying on the business of vending.
 - c. Conducting the business of vending in any manner contrary to the conditions of the permit.
 - d. Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, or interfere with the rights of abutting property owners; or
 - e. Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.
2. **Notification of Suspension or Revocation.** The Community Development Director or his/her designee shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the vendor of his right to appeal. Such notice shall be mailed to the address shown on the permit holder's application by certified mail, return receipt requested.
3. **Forfeiture of Fee.** If the City revokes a vending permit, the fee already paid for the permit shall be forfeited. A person whose permit has been revoked under this Section may not apply for a new permit for a period of one (1) year from the date that the revocation took effect.

DEFINITIONS

Conveyance (Outdoor Vendors): Any publicly or privately owned vending stand, vending trailer, mobile food vehicle, or any other device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise.

Ice Cream Truck: A specific type of mobile food vehicle that sells only prepackaged, single-portion ice cream or frozen confections.

Mobile Food Vehicle: A food establishment preparing and/or serving foods from a self-contained vehicle, either motorized or within a trailer, that is readily movable without disassembling for transport to another location. Mobile food vehicles may serve as a conveyance for outdoor vending at a fixed location.

Mobile Food Vending. Vending from a mobile food vehicle, in which only prepackaged, single portion food is carried for purposes of sale while traveling along city streets, making periodic stops on streets where parallel parking is permitted and that do not exceed 15 minutes to accommodate a sale or sales. This definition shall include ice cream trucks. This definition shall not include vendors who distribute or deliver their products to regular customers on established routes.

Mobile Food Vendor: Any person that owns or operates a mobile food vehicle for the purpose of mobile food vending, as defined herein.

Outdoor Vending. Exhibiting, displaying, selling or offering for sale any food, beverages, goods, wares or merchandise from a conveyance at a fixed location on public or private property.

Outdoor Vending, Private Property (Outdoor Vendors): The exhibit, display, or sale of any food, beverages, goods, wares, or merchandise from a conveyance at a fixed location on private property.

Outdoor Vending, Public Right-of-Way (Outdoor Vendors): The exhibit, display, or sale of any food, beverages, goods, wares, or merchandise from a conveyance at a fixed location on public right-of-way.

Outdoor Vendor (Outdoor Vendors): Any person that exhibits, displays, sells or offers for sale any food, beverages, goods, wares or merchandise from a conveyance at a fixed location. This definition does not include a door-to-door peddler, solicitor, mobile food vending, children's lemonade stands or homeowners having garage sales.

Outdoor Vendor Park. A site that contains more than one outdoor vendor on a regular basis as the principal use of the land.

Public Way (Outdoor Vendors): All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

Pushcart or Handcart (Outdoor Vendors): Any open-air wheeled device designed for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise and for being pushed by a person without the assistance of a motor vehicle.

Sidewalk (Outdoor Vendors): All that area legally open to the public used as a pedestrian public way between the curb line and the legal property line of the abutting property.

Vending Stand (Outdoor Vendors): An non-motorized, open-air fixture or device, such as a showcase, table, bench, rack, handcart, pushcart, stall that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise at a fixed location. This definition does not include vending trailers.

Vending Trailer (Outdoor Vendors): A device enclosed on at least three sides with a permanent roof, mounted on wheels, designed to be pulled by a motor vehicle for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise.