

HAILEY ORDINANCE NO. 1363

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY MUNICIPAL CODE, TITLE 5: BUSINESS LICENSES AND REGULATIONS, , CREATING CHAPTER 5.17: MOBILE VENDING; WHICH ADDS NEW DEFINITIONS TO CODE, NEW PERMITTING REQUIREMENTS, AND NEW STANDARDS FOR MOBILE VENDOR OPERATIONS AND SITE DESIGN; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the changes proposed will provide transparent and practical regulations for effective management of mobile vending activities with the intent of reinforcing the following statements and goals contained within the Comprehensive Plan:

Section 5: Land Use

- 5.1. Ensure that Hailey is a vibrant, dynamic, attractive, and affordable place to live, recreate, and operate businesses.
- 5.2 Make Downtown Hailey the center of commercial, civic, and cultural activity within Hailey and the Wood River Valley.

Section 6: Economic Development

- 6.1 Diversify Hailey's economic base and increase year-round employment opportunities.
- 6.2 Promote land use and development that contributes to economic diversification.
- 6.3 Support proactive, innovative strategies to address resident and business needs.

WHEREAS, the changes proposed will provide citizens, business owners and entrepreneurs, and municipal officials with a mobile vending code that is accurate, easy to understand, fair, and enforceable.

WHEREAS, the creation of this mobile vending code will create better alignment with the mobile vending regulations of peer communities in Idaho;

WHEREAS the text set forth in this ordinance will promote public health, safety, and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Title 5: Business Licenses and Regulations, Chapter 5.17: Mobile Vending, is hereby added by the addition of the underlined language, as follows:

5.17.010 PURPOSE:

The purpose of the City of Hailey vendor license is to provide a process whereby mobile vending activities are conducted in the city in such a way that all city requirements, health district requirements, and state regulations are adhered to. A vendor license ensures that mobile vending

activities uphold the general health, welfare, and safety of the public to the greatest extent possible, while also providing for consistent business permitting and the promotion of fair regulatory practices across business types.

5.17.020 DEFINITIONS

CITY: The city of Hailey, Idaho.

ENGAGE IN OR CONDUCT BUSINESS: The selling, soliciting, advertising or offering for sale of any items of personal property or any interest therein.

FOOD TRUCK: A mobile vendor unit that sells or serves food and/or drink for human consumption.

FULLY SCREENED: A term used to describe an object or site feature that is completely screened from the public right-of-way at ground level. Screening treatments may include, but are not limited to, wood panel fencing, landscaping, concrete masonry units (“CMUs”), walled construction, and/or other creative screening measure as approved by Staff.

GROUP OPERATION: A term used to describe three (3) or more individual mobile vending units that operate in single, fixed locations on private property. This includes arrangements like mobile vending “pods” and/or “courts”. The group operation designation applies to three (3) or more mobile vending units operating on private property, even if such units do not always operate simultaneously.

MOBILE SERVICE: A business activity conducted from a motor vehicle, trailer, or other transportable equipment, where services are provided on a temporary basis and no permanent business premises are established at the service location. Mobile services may include, but are not limited to, vehicle repair or detailing, windshield replacement, carpet or upholstery cleaning, appliance repair, plumbing, HVAC services, dog grooming, and similar trades or delivery of expertise. All mobile services must be performed on private property. This definition further excludes mobile food vendors, delivery services that do not perform work onsite, mobile sales of tangible goods, and construction activities regulated separately under this Code.

MOBILE VENDOR: Any business, whether owned and/or operated by an individual, group of individuals, partnership, or corporation, that conducts the sale of food, beverages, or other goods and products from a mobile vending vehicle, trailer, and/or pushcart, which is not permanently affixed to the ground and is able to be moved or driven on occasion.

MOBILE VENDING UNIT: A vehicle and/or trailer from which mobile vending operations occur.

VENDOR LICENSE: A license to conduct mobile and temporary vendor activities in the City of Hailey, distinct from a traditional business license issued by the City of Hailey.

NOT FOR PROFIT BUSINESS: Any organization exempt from taxation as provided by 26 USC 501 and meeting all the requirements for the exemption provided by 26 USC 503.

PERSONS: Any individual, including an employee or agent of an individual or group of individuals, corporation, partnership, joint venture, limited partnership, or any other business entity.

PRIVATE PROPERTY: Any property not dedicated to public use.

PUBLIC STREET OR PLACE: Any sidewalk, street, alley, highway, public right of way, park, parking lot, or other place owned in fee by the city, or in, on or over which an easement exists in the name of or held by the city, or its designees, or which exists for the benefit and use of the public.

SPECIAL EVENT: Any event that is described in subsection 12.14.030B of the Hailey Municipal Code.

5.17.030 APPLICABILITY:

Except as otherwise provided in Section 5.17.040 of this chapter, it shall be unlawful for any person to conduct mobile vending business activities within the City of Hailey without first obtaining an approved vendor license and receiving administrative approval from the Hailey Community Development Department.

5.17.040 EXCEPTIONS:

The following mobile and/or temporary vending activities are exempted from the provisions of this chapter:

- A. Any sales under court order;
- B. A bona fide auction sale;
- C. Garage, yard or similar sales by individual at their residence or place of business;
- D. School, youth group, or similar not-for-profit business sales, where all vending occurs on private property and all proceeds go to directly benefit such non-commercial entities;
- E. Any business activity or event approved under chapter 5.24, "Fireworks", of this title or title 12, chapter 12.14, "Special Events", of this code; and
- F. Home occupations, as defined by the Hailey zoning ordinance, Hailey ordinance 532, as amended. (Ord. 1095 §§ 1 - 6, 2011; Ord. 903 § 2, 2005; Ord. 872 § 2, 2004; Ord. 593 § 2, 1992)

5.17.050 REQUIRED APPLICATION:

A. A separate vendor license shall be required for each mobile vending unit located within the City. A vendor license is distinct from general business licenses required by the City of Hailey, as provided in Section 5.02 of this chapter.

B. Any person conducting mobile vending or engaged in such an occupation shall apply for the required vendor license by completing an application provided by Hailey's Community Development Department. A separate vendor license shall be required for each vending unit.

C. Mobile vending units operating under an approved Special Event Permit are not required to obtain a City of Hailey mobile vendor license. South Central Public Health requirements may still apply. Mobile vending units operating under an approved Special Event Permit are strongly encouraged to consult with South Central Public Health prior to operation.

5.17.060 STANDARDS OF ISSUANCE OF LICENSE:

A vendor license and any renewals or amendments thereto shall be issued by the Hailey Community Development Department only to vendors who meet the following requirements:

- A. Compliance with South Central Public Health District Regulations:
 - 1. Any mobile or temporary vendor of food or beverages shall adhere to all applicable regulations outlined within South Central Public Health District's Food Safety and Reporting program. Vendors for a City of Hailey vendor license shall have obtained an approved food establishment license, in addition to any other mobile food establishment documentation as required by South Central Public Health District, prior to issuance of an approved city of Hailey vendor license.

- B. Compliance with City of Hailey Wastewater Division Pre-Treatment Program Guidelines.
- C. Compliance with City of Hailey Alcohol Beverage License regulations, if serving alcohol.
- D. Compliance with International Fire Code, as currently amended and adopted by reference within the Hailey Municipal Code.
- E. Valid vehicle and/or utility trailer registration.
- F. Comprehensive General Liability Insurance Policy with minimum \$1,000,000 combined single limit per occurrence, if operating within City right-of-way or on other City-owned property. Proof of insurance shall be required and verified by the mobile vendor annually.
- G. Compliance with Zoning Requirements: The mobile vending activity for which the application is made is not in violation of any zoning regulations.
- H. Compliance with Outdoor Lighting Standards pursuant to Title 17, Chapter 17.08, Article C: Outdoor Lighting.
- I. Compliance with ADA Accessibility Requirements.
- J. Compliance with City of Hailey Noise Standards (e.g., music, generators, etc.). An Amplified Sound Permit may be required.
- K. Mobile vendor licenses are non-transferable.
- L. If the mobile vendor desires to connect to water/wastewater utilities on private property, the mobile vendor shall connect to municipal water/wastewater utilities through the connection serving the property's existing structure, or via an additional, separate connection to the water or wastewater main lines.
 - 1. Water connections serving the mobile vending unit shall remain separate from all secondary connections (e.g. irrigation lines).
 - 2. Insulating mobile vending unit water and wastewater connections, to prevent freezing, is the sole responsibility of the mobile vending unit owner.

5.17.070 LICENSE FEE; RENEWAL:

A non-refundable vendor license fee for the administrative costs of processing applications shall be paid by each applicant at the time of making application for any vendor license. The license shall be issued for one (1) year from the date of application approval. All vendor licenses required hereunder shall be renewed annually for each year or portion of the year in which the mobile vendor subject to this chapter remains in operation. There shall be a proration of fees for licenses renewed for a portion of the year, proportional to the number of months the mobile vendor plans to remain in operation. In no case will refunds of renewal fees be given. The amount of the fees provided for herein shall be set by resolution of the city council.

5.17.080 PERMITTED LOCATIONS:

A mobile vendor may operate a mobile vending unit only in the locations described in this section and as permitted by the District Use Matrix, found in Title 17, Chapter 17.05.

- A. Rights-of-Way and Parks: Mobile vendors shall only operate within rights-of-way and/or parks pursuant to an approved Special Event Permit.
 - 1. Exceptions: Mobile vendors conducting recurring operations within the public right-of-way may be authorized through an annual Mobile Vendor Permit in lieu of a Special Event Permit. The City may issue and renew an annual Mobile Vendor Permit upon determining that the vendor's operation is compatible with the intended use of the right-of-way and has demonstrated compliance with applicable requirements, including standards for safety, cleanliness, maintenance, and operational

performance. The permit may include conditions related to location, hours of operation, sanitation, insurance, and public safety. Vendors operating under a valid annual Mobile Vendor Permit are not required to obtain a separate Special Event Permit for activities authorized by the permit. This exception applies only to operations within the public right-of-way and does not apply to parks.

- B. Public and semi-public properties: Mobile vendors shall only operate on public and semi-public properties (excluding rights-of-way and parks) via an approved Conditional Use Permit. This includes properties owned by religious institutions, taxing districts, and state and federal agencies. The Applicant shall apply for a Conditional Use Permit via the Community Development Department. The Conditional Use Permit shall be required in addition to the Mobile Vendor License.

5.17.090 CHANGE OF LOCATION:

A vendor license amendment application shall be required for a mobile vendor if they wish to change operating locations from the location listed on the original mobile vendor license application. Each mobile vendor license holder is only permitted to apply for up to three (3) amendments before a new mobile vendor license is required. This standard applies to private property, right-of-way, and semi-public property mobile vendors.

5.17.100: PROHIBITION AGAINST DOING BUSINESS WITHOUT A LICENSE:

No person shall engage in any mobile vending within the boundaries of the city without first having obtained a mobile vendor license as required by this chapter, or without first having obtained an approved Special Event Permit, as applicable. All vendor licenses required under this chapter shall be displayed on the mobile vending unit in a location clearly visible to the general public.

5.17.110: MOBILE VENDING UNIT AND SITE STANDARDS:

- A. Unit Standards: Mobile vending carts, trailers and vehicles must be designed and built to meet normal industry standards and used in a safe manner.
1. Size; Design; Brakes: A mobile vending cart frame must be sized appropriately for its intended operation location. Mobile vending cart frame sizes should not impede pedestrian traffic when located in places like sidewalks, pathways, parking lots, etc. The mobile vending cart must have a minimum of two (2) functional, rubber-tired wheels. The braking mechanism on the mobile vending cart shall be affixed in such a manner that it is not readily removable. The use of ropes and shocks as the sole braking mechanism is prohibited.
 2. Generators: Mobile vending unit generators powered by gasoline or diesel are not preferred. If electric hook-ups are not available, generators powered by propane are strongly encouraged. Staff prefer to see mobile vending units operate in such a manner that minimizes emissions and overall energy use.
 3. Mobile vending unit operators shall make every effort to mitigate excessive noise and fumes from their operations. City Staff reserve the right to inspect mobile vending units for excessive noise and fumes, respond to potential public complaints, and require operational

adjustments for mobile vending units when it is in the best interest of the health, life, and safety of the broader public.

4. Fire Extinguisher: A five (5) pound, "K" class, handheld fire extinguisher is required if a heating or cooking appliance is used.
 5. Sanitation: A hand-washing station, sanitizer dispenser, or other means of providing effective sanitation for customers shall be provided for all applicable mobile vending units as required by South Central Public Health District.
 6. Inspections: Except for merchandise or food items to be sold, mobile vending units presented for inspection shall be exactly as they will appear when operating on a public right-of-way, including any food rack.
 7. Support Equipment and Accessories: Support equipment and accessories, other than the generator and the propane tanks, must not extend more than four feet (4') from the edge of the mobile vending unit in any direction and shall not be placed to impede pedestrian traffic. Umbrellas, canopies or other covers used on mobile vending units must be securely fastened and must not extend more than four feet (4') from the edge of the cart, trailer or vehicle in any direction.
 8. Clean Appearance: Mobile vending carts, trailers and vehicles shall have a clean appearance at all times.
 9. All mobile vending units operating in the City of Hailey shall provide recycling and waste receptacles for customer use. Food composting receptacles and the elimination of single-use plastics and other auxiliary containers are encouraged.
- B. Site Standards: Mobile vending units operating on private property shall adhere to all applicable site standards:
1. Proposals for more than one (1) mobile vending unit operating on a single piece of private property shall be subject to city staff review and Planning and Zoning Commission approval. Any proposals for mobile vending unit pod/court shall be subject to a Conditional Use Permit Application and review process. All mobile vending units proposed for a pod/court are required to have an approved mobile vendor license and abide by all applicable standards and regulations outlined in this Title.
 2. An individual mobile vending unit footprint shall not exceed five hundred (500) square feet in size.
 3. Mobile vendors shall provide clear, unobstructed customer access to the unit onsite. This includes a durable walking surface, access pathways designed to support customers with wheelchairs, and ensuring that all access routes and customer queuing areas are free from unsecured cords, hoses, signage, etc.

4. Mobile vending unit operators are strongly encouraged to provide a designated bike parking area, and/or coordinate with the private property owner to provide customer access to any existing bike parking.
5. Group operations of mobile vending units on private property are required to provide a designated bike parking area.
6. Every mobile vending unit and vending group operation shall provide at least one (1) restroom onsite for employee use during operating hours, or the mobile vending unit and/or vending group operation shall provide documentation of a shared use agreement for access to existing restroom facilities within reasonable walking distance of the unit. The shared use agreement shall stipulate that restrooms will be available during vendor hours of operation.
7. Temporary restroom facilities (e.g. "porta-potties") are strongly encouraged to be fully screened from the ground level.
8. All mobile vending units operating on private property shall provide recycling and waste receptacles for customer use. Food composting receptacles and the elimination of single-use plastics and other auxiliary containers are encouraged.
9. Mobile vending units may operate in specific locations in the City right-of-way, to be determined by City Staff. The City reserves the right to modify permitted unit locations based on site-specific factors such as traffic crossings, pedestrian corridors, maintenance needs, or other reasons deemed applicable for supporting the general health, safety, and welfare of the Hailey community.

5.17.120: RIGHT OF APPEAL:

An appeal from any decision of the city clerk made in the administration or enforcement of this chapter may be made to the city council by filing a written appeal and fee with the city clerk within fifteen (15) days following the date of the action or decision giving rise to the appeal. Upon hearing the appeal, the city council shall consider the record, the decision of the city officer, and the written appeal, together with oral presentation by the appellant, the city officer or administrator and the applicant. The city council may affirm, reverse or modify the decision of the city clerk. The city council shall not substitute its judgment for that of the city clerk as to the weight of the evidence on questions of fact. The city council shall affirm the city clerk's decision unless the city council finds the decision is: a) clearly erroneous; b) arbitrary, capricious or an abuse of discretion; or c) not supported by substantial evidence in the record as a whole. The city clerk shall transmit a copy of the city council's decision and findings to the appellant, the applicant and any other person or entity who has requested a copy in writing. The fee for processing the appeal shall be set by resolution of the city council. (Ord. 872 § 6, 2004; Ord. 593 § 8, 1992)

5.17.130: ENFORCEMENT:

A. Civil Liability: The city attorney shall, at the direction of the city council, institute civil suit in the name of the city to enforce compliance with the provisions of this chapter by injunctive relief, declaratory relief or other civil remedy. The city shall be entitled to recover its costs and attorney fees from the other party upon prevailing in any such civil action. No civil judgment, or any act by the city or the violator, shall bar or prevent a criminal prosecution for each and every violation of this chapter.

B. Criminal Liability: A person who violates any provision of this chapter or operates any business or occupation for which a license is required by this chapter without having first obtained a license, as herein provided, shall be guilty of a misdemeanor, punishable by a fine not to exceed three hundred dollars (\$300.00), or imprisonment for not more than thirty (30) days, or both such fine and imprisonment, which penalty shall be in addition to any other penalties provided in this chapter. Each day that a violation of this chapter occurs shall be deemed a separate offense. (Ord. 593 § 9, 1992).

Section 2. Severability Clause: Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 3. Repealer Clause: All City of Hailey ordinances or parts thereof, which are in conflict herewith, are hereby repealed.

Section 4. Effective Date: This ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE
MAYOR THIS ____ DAY OF _____, 2026.

Martha Burke, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk