

**ORDINANCE NUMBER 726
CITY OF CASCADE, IDAHO**

AN ORDINANCE OF THE CITY COUNCIL OF CASCADE, IDAHO AMENDING CASCADE CITY CODE TITLE 4 – BUSINESS REGULATIONS BY ADDITION OF A NEW CHAPTER 9 TO TITLE 4 CASCADE CITY CODE ESTABLISHING APPLICATION PROCESS AND REQUIREMENTS FOR MOBILE FOOD CONCESSIONAIRES OPERATING IN THE CITY OF CASCADE; DIRECTING THE CITY CLERK; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CASCADE, IDAHO:

Section 1: Amending Title 4 Cascade City Code as follows:

1.1 That Title 4 of the Cascade City Code be amended by the addition thereto of a new Chapter 9 to read as follows:

CHAPTER 9 – MOBILE FOOD CONCESSIONAIRES:

4-9-1: TITLE; PURPOSES:

- A. Short Title: This Chapter shall be known as the MOBILE FOOD CONCESIONAIRES ORDINANCE FOR THE CITY OF CASCADE.
- B. Purposes: The purposes of these regulations are:
 - 1. To reasonably regulate Mobile Food Concessionaires on public ways and private property as necessary to protect the public health, safety, and welfare.
 - 2. To reasonably regulate the number and geographical distribution of Mobile Food Concessionaires to protect and conserve the economic base of the community, including property values and the on-going viability of existing business investments in permanent structures and sites, while also promoting new businesses that maintain and enhance the appearance, character, and beauty of the City.
 - 3. To reasonably regulate Mobile Food Concessionaires in the City in order to mitigate adverse effects that could otherwise arise.
 - 4. To reasonably regulate Mobile Food Concessionaires as necessary to ensure that any stand, food truck, or structure design and construction is safe, orderly, and provides for safe and adequate pedestrian and vehicular traffic.

5. The regulations contained in this Chapter are not intended to prohibit or hamper speech which is protected by the First Amendment, but merely to regulate specific activities which are commercial in nature.

4-9-2: DEFINITIONS:

As used in this Chapter:

CITY: The City of Cascade, Idaho.

CITY CLERK: The duly appointed City Clerk of the City of Cascade, Idaho

CITY COUNCIL: The duly elected City Council of the City of Cascade, Idaho.

CITY STAFF: The duly appointed City Staff of the City of Cascade, Idaho.

CONSUMABLE GOODS: Includes, but is not limited to, all food and nonalcoholic beverages intended for sale by a Vendor.

ENGAGE IN OR CONDUCT BUSINESS: The selling, soliciting, advertising or offering for sale Consumable Goods by way of a Mobile Food Concessionaire.

FIRE CHIEF: The Cascade Rural Fire Protection District.

LICENSE SITE: The location of the site to be assigned in the vendor's license.

MAYOR: The duly elected Mayor of the City of Cascade, Idaho.

MOBILE: Any detached object lacking permanent foundations and designed for easy and immediate transportation after fabrication on sidewalks, streets or highways on its own wheels or on a flatbed or other trailer, and arriving at the site where it is to occupy as complete and ready for use and operation except for minor and incidental unpacking and assembly operations.

MOBILE FOOD CONCESSIONAIRE: Any Mobile Food Stand, Mobile Food Pushcart, or Motorized Food Concessionaire used for the display, storage, transportation, and distribution of Consumable Goods offered for sale by a Vendor.

MOBILE FOOD CONCESSIONAIRE CONSENT AGREEMENT: The form agreement provided by the City and made available to any and all applicants seeking to locate and operate a Mobile Food Concessionaire on private land.

MOBILE FOOD CONCESSIONAIRE PERMIT: The permit, in conjunction with all other licenses, permits, certifications, and inspections in compliance with the provisions of this Chapter, required for the legal operation of a Mobile Food Concessionaire.

MOBILE FOOD PUSHCART: Any non-motorized Mobile Food Concessionaire comprising any wheeled stand or cart capable of being manually pushed and specifically designed or intended for the purpose of and used for the display, storage, transportation, and distribution of Consumable Goods offered for sale by a Vendor.

MOBILE FOOD STAND: Any non-motorized Mobile Food Concessionaire comprising any make-shift stand, table, bench, booth, rack, tent or any other mobile fixtures or devices used collectively for the display, storage, transportation, and distribution of Consumable Goods offered for sale by a Vendor.

MOTORIZED FOOD CONCESSIONAIRE: Any motorized vehicle from which Consumable Goods are offered for sale by a Vendor, including food trucks, trailers, and vans.

PERMIT SITE: The Site where a Mobile Food Concessionaire is, by approval of the City, expressly permitted to operate.

PERSON: Any individual, corporation, partnership, joint venture, limited partnership or any other business entity.

PUBLIC RESTROOM: Any structure or room containing one (1) or more toilets for use by members of the general public and does not include restrooms provided by businesses to their respective employees and patrons unless the owner and operator of such business gives written consent to the relevant Mobile Food Concessionaire Permit applicant, with a copy of said written consent provided to the City, granting access to and use of the business owner's restroom by non-patron members of the general public and/or the Mobile Food Concessionaire Permit applicant's customers.

PUBLIC WAY: All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, public rights-of-way, and parking lots, as well as the interior and areas surrounding public buildings or other places owned in fee by the City of Cascade, Idaho, or in, on or over which an easement exists in the name of or held by the City of Cascade, Idaho, or which exists for the benefit and use of the public.

RESTAURANT: Any permanent, brick-and-mortar commercial business engaged in or conducting the business of selling, soliciting, advertising or offering for sale Consumable Goods.

SITE: A single parcel of property within the City of Cascade, Idaho.

SPECIAL EVENT: An occasion including, but not limited to, fairs, shows, exhibitions, citywide celebrations and festivals, within a specifically defined area of the City of Cascade for a period of time not to exceed four consecutive days in one (1) year.

VACANT LAND: Parcels of property within the City of Cascade without a permanent building.

VENDING: The selling, soliciting, advertising or offering for sale any Consumable Goods, such as, but not limited to, any items of food and nonalcoholic beverages.

VENDOR: Any Person, including an employee or agent of a group of Persons, partnership or corporation, or any other business entity, who sells or offers to sell Consumable Goods, such as, but not limited to, any items of food and nonalcoholic beverages.

4-9-3: PUBLIC WAYS PROHIBITIONS:

- A. It is unlawful for any Person to engage in or conduct any business in, on, over or upon a public way within the City, or employ any Person to engage in or conduct any business in, on, over or upon a public way within the City.
- B. It is unlawful for any Person to distribute to the public or place on any vehicle in the public way or place any cards, circulars, handbills, samples of merchandise or any advertising matter whatsoever on any public way within the City, or to employ any Person to do the same in, on, over or upon any public way within the City.

4-9-4: LICENSES, PERMITS, AND CERTIFICATIONS REQUIRED:

It shall be unlawful for any Vendor as the same are herein defined, to engage in such Mobile Food Concessionaire business or to employ another in such business within the corporate limits of the City without first obtaining the following licenses, permits, certifications, and inspections in compliance with the provisions of this Chapter:

- A. A corresponding Business License from the City Clerk pursuant to Title 4, Chapter 7 Business Licenses;
- B. A corresponding Central Health District Certification or written communication the applicant received from Central Health District confirming that the Mobile Food Concessionaire may operate without certification, pursuant to section 4-1-3(E) of Title 4, Chapter 1 Peddlers and Solicitors, and this Chapter;
- C. A corresponding completed Southern Idaho Fire Departments Mobile Food Preparation Inspection pursuant to this Chapter;
- D. A corresponding completed City Building Department sign inspection pursuant to section 2-2-4 of Title 2, Chapter 2 Sign Regulations and this Chapter;
- E. A corresponding City of Cascade local-option non-property tax permit pursuant to section 4-8-8 of Title 4, Chapter 8 Non-Property Sales Tax; and
- F. A corresponding Mobile Food Concessionaire Permit pursuant to this Chapter.

4-9-5: APPLICATION:

- A.** Any Person desiring to Engage in or Conduct Business as defined in this Chapter shall make application to receive a Mobile Food Concessionaire Permit from the City Clerk prior to engaging in or conducting such business.
- B.** Mobile Food Concessionaire Permit applicants shall include with said application proof of the following corresponding, qualifying, and preexisting licenses, permits, certifications, and inspections:
 - 1. A Business License from the City Clerk pursuant to Title 4, Chapter 7 Business Licenses;
 - 2. A Central Health District Certification pursuant to section 4-1-3(E) of Title 4, Chapter 1 Peddlers and Solicitors, and this Chapter, or written communication the applicant received from Central Health District confirming that the Mobile Food Concessionaire may operate without certification;
 - 3. A completed Southern Idaho Fire Departments Mobile Food Preparation Inspection pursuant to this Chapter;
 - 4. A completed City Building Department sign inspection pursuant to section 2-2-4 of Title 2, Chapter 2 Sign Regulations and this Chapter; and
 - 5. A City of Cascade local-option non-property tax permit pursuant to section 4-8-8 of Title 4, Chapter 8 Non-Property Sales Tax.
- C.** If said applicant lacks any of the aforementioned preexisting licenses, permits, certifications, and inspections listed in section 4-9-5(B), said applicant shall submit the appropriate applications for such missing licenses, permits, certifications, and inspections in conjunction with the applicant's Mobile Food Concessionaire Permit application.
- D.** Applicants for Mobile Food Concessionaire Permits shall file a complete application for Mobile Food Concessionaire Permits with the City Clerk not less than thirty (30) calendar days prior to the date such Person desires to Engage in or Conduct Business. The application shall be furnished by the City and shall contain all information relevant and necessary to determine whether a particular Mobile Food Concessionaire Permit may be issued including, but not limited to, the following information:
 - 1. Full name, date of birth and social security number and/or driver's license number of the applicant;
 - 2. Home address and telephone number, permanent business address and telephone number (if any), and local address and telephone number (if any) of the applicant;

3. A brief description of the nature, character and quality of the Consumable Goods to be offered for sale or delivered, and method of distributing products. In the case of products of farm or orchard, where such products were produced or grown;
4. Proof that applicant possesses a federal taxpayer identification number;
5. Proof that applicant possesses a State of Idaho Sales Tax identification number;
6. The nature of the proposed advertising to be done for the business at the proposed location;
7. Indication of whether applicant will use a Mobile Food Pushcart, a Mobile Food Stand, or a Motorized Food Concessionaire;
8. If a Motorized Food Concessionaire is to be used in the business, a description of the vehicle together with the motor vehicle registration number and the license number;
9. If propane is to be used in the business, a description of the propane tanks to be used, their location, the purpose of their use, and any and all health and safety measures to be taken to mitigate risks associated with the use of propane for the business;
10. The property description of each Site where the applicant proposes to Engage in or Conduct Business;
11. Written and notarized permission of the owner(s) of the real property reflecting applicant's authority to Engage in or Conduct Business at the specific location(s) identified in the application. Should any question exist as to the owner of real property, it shall be the duty of the applicant, as part of the application, to satisfactorily establish the same;
12. The specific dates and times requested to Engage in or Conduct Business;
13. Proof that the applicant possesses all licenses, permits, certifications, and inspections listed in section 4-9-5(B) and all tax identification numbers required by City ordinances and the state for the operation of the proposed business;
14. If the applicant lacks the licenses, permits, certifications, and inspections listed in section 4-9-5(B), then applicant must either include all applications and related forms for any and all missing licenses, permits, certifications, and inspections listed in section 4-9-5(B), or obtain any and all missing licenses, permits, certifications, and inspections listed in section 4-9-5(B) prior to applying for a Mobile Food Concessionaire Permit and include proof pursuant to 4-9-5(D)(13);
15. A complete listing of any other licenses or permits issued to the applicant by the City within the past five (5) years;

16. Whether a permit or license issued to the applicant for the purpose of Vending as defined in this Chapter or vending as defined in section 4-1-2 has been revoked during the past five (5) years, and if so, where and when; and

17. All other information required by this Chapter.

E. A separate Mobile Food Concessionaire Permit shall be required for each separate Mobile Food Concessionaire in operation. Generally, Mobile Food Concessionaires must not be physically connected together. Pursuant to Central Health District's relevant rules, requirements, and guidelines, no more than two (2) Mobile Food Concessionaires may be physically connected together so long as one (1) of the connected Mobile Food Concessionaires is used solely for dry storage. Where two (2) Mobile Food Concessionaires are to be physically connected together as a single business operation with one (1) of the connected Mobile Food Concessionaires used solely for dry storage in compliance with Central Health District, the Vendor of such business operation shall, in addition to obtaining or possessing all licenses, permits, certifications, and inspections listed in section 4-9-5(B), only need to apply for and obtain a single Mobile Food Concessionaire Permit.

4-9-6: TERM:

A. A Mobile Food Concessionaire Permit is valid for the following time periods:

1. Short-Term Mobile Food Concessionaire Permit: A Short-Term Mobile Food Concessionaire Permit shall be valid for a consecutive period not to exceed two (2) weeks.
2. Seasonal Term Mobile Food Concessionaire Permit: A Seasonal Term Mobile Food Concessionaire Permit is valid for a consecutive four-month (4-month) period and can only be obtained for a maximum of two (2) consecutive four-month (4-month) periods in any given year.

B. Each Mobile Food Concessionaire Permit shall expire at 12:00 a.m. midnight on the last day for which such permit is issued.

4-9-7: FEES:

A. The Mobile Food Concessionaire Permit fee shall be paid in advance at the time of filing the application, and the fee for such permit shall be established by resolution approved by the Council.

B. The fees established in this section shall not be prorated and are not refundable.

- C. A separate permit fee, as identified in this section, shall be required for each separate Mobile Food Concessionaire, such as, but not limited to, each separate Mobile Food Pushcart, Mobile Food Stand, or Motorized Food Concessionaire;

4-9-8: HEALTH AND SAFETY COMPLIANCE

- A. Central Health District Certification: Any and all Mobile Food Concessionaire Permit applicants shall apply for certification from Central Health District prior to issuance of a Mobile Food Concessionaire Permit. For Mobile Food Concessionaires that Central Health District deems permissible to operate without a Central Health District certification, the applicant must include with the Mobile Food Concessionaire Permit application the written communication the applicant received from Central Health District confirming that the Mobile Food Concessionaire may operate without certification. Such certification shall include proof of a current and valid Idaho Food Handler's License approved by Central District Health. Any and all subsequent Engaging or Conducting of Business under the Mobile Food Concessionaire Permit shall abide by all of Central Health District's relevant rules, requirements, and guidelines at all times.
- B. Southern Idaho Fire Departments Mobile Food Preparation Inspection: Any and all Mobile Food Concessionaire Permit applicants shall obtain inspection and approval from the fire department in accordance with the standards, guidelines, and inspection checklist pursuant to the Southern Idaho Fire Departments Mobile Food Preparation Inspection prior to issuance of a Mobile Food Concessionaire Permit. Any and all subsequent Engaging or Conducting of Business under the Mobile Food Concessionaire Permit shall abide by all of the fire department's relevant rules, requirements, and guidelines, including compliance with the International Fire Code and International Building Code to the satisfaction of the Fire Chief at all times.
- C. Building Department Inspection: Any and all Mobile Food Concessionaire Permit applicants shall obtain inspection and approval from the City Building Department prior to issuance of a Mobile Food Concessionaire Permit. Such inspection shall comprise, but is not limited to, the following:
 - 1. Signs: All signs to be used by the Mobile Food Concessionaire. While such signs generally constitute "portable signs" that do not require a permit pursuant to section 2-2-4(C)(3), all such signs must still receive inspection and approval from the City Building Department prior to issuance of a Mobile Food Concessionaire Permit; and
 - 2. Code Compliance: All City Code ordinances implicated by the Mobile Food Concessionaire. The inspection shall take account of all implicated City Code ordinances and, upon ensuring compliance with all such implicated ordinances, grant approval prior to issuance of a Mobile Food Concessionaire Permit.

4-9-9: ISSUANCE OF PERMIT

- A. Investigation:** When an application for a Mobile Food Concessionaire Permit has been filed with the City Clerk in proper form, the City Clerk and City Staff shall cause an investigation to determine the validity and completeness of the information presented in the application. In addition, the City shall provide written notice of such application to the owners of property sharing a property boundary with the proposed Vending Site. Such notice shall inform adjacent property owners they may comment on the application during a period of not less than ten (10) days after mailing of the notice and prior to final action on such application.
- B. Design Review:** The City Clerk and City Staff are empowered to review all Mobile Food Concessionaire Permit applications and shall review each proposed Vending Site and approve or deny the same according to the evaluation standards set forth in this section as follows:
- 1. Materials and Information:** The following materials and information, together with the application and all other materials required by this Chapter, shall constitute a complete application for design review, and shall be filed by the applicant with the City Clerk:
 - a.** Photograph or drawing of proposed Mobile Food Concessionaire with dimensions;
 - b.** Site utilization map in sufficient detail depicting the following:
 - (1)** Exterior property lines of proposed permit site(s), together with dimensions drawn to scale;
 - (2)** Location(s) of the proposed Mobile Food Concessionaire(s) and existing Mobile Food Concessionaires and other structures with dimensions showing the setback of each Mobile Food Concessionaire from the nearest property line;
 - (3)** Location and dimensions of the adjacent streets and public ways, together with the location of any proposed street or other public way;
 - (4)** Location of public queuing and circulation resulting from Mobile Food Concessionaire(s);
 - (5)** Location of and distance to any existing Mobile Food Concessionaire(s) on adjoining properties;
 - (6)** Location of and distance to any existing Restaurants;
 - (7)** Location of dumpster and/or garbage can storage areas including the dimensions and plan for removal of garbage;

- (8) Location and dimensions of easements, private and public, within and adjacent to the proposed project, together with the purpose of such easements;
 - (9) Location of parking and storage areas to be used by employees and operators of the Mobile Food Concessionaire;
 - (10) Location of nearby Public Restrooms and/or porta-potties and separate handwashing facilities that applicant anticipates employees of the Mobile Food Concessionaire and the operation's customers using by designating such locations and their distances from the Mobile Food Concessionaire's anticipated location on a site map;
 - (11) Location of City water and service connection, including details on service metering, if greater than one (1) Mobile Food Concessionaire Permit is proposed on a given site;
 - (12) Identification of measures to control propane, exhaust, smoke, fumes and/or noise from emanating from the Mobile Food Concessionaire, including but not limited to generators and other devices using propane and/or producing exhaust, smoke, fumes and/or noise;
 - (13) Indication of snow storage areas and direction of snow slide and drip line from roof of Mobile Food Concessionaire; and
 - (14) Identification of proposed disposal facility for the proper disposal of cooking grease and any other non-greywater waste byproducts resulting from the Engaging in or Conducting of Business.
2. **Criteria and Standards:** The following list of design review criteria must be considered and addressed by each applicant seeking design review approval of a Mobile Food Concessionaire. The City Clerk and City Staff will use this list of design criteria as a basis to determine whether an application is to be approved or denied. The City Clerk and City Staff may suggest changes and/or place conditions of approval based upon these design criteria if found necessary to maintain the public health, safety and welfare:
- a. **Architectural Quality and Compatibility:**
 - (1) The Mobile Food Concessionaire shall be set back no less than five (5) feet from any and all property lines of the Site.
 - (2) Exterior lighting shall be downlit and shall not have an adverse impact upon other properties and/or public ways in compliance with Chapter 2 of Title 6.

- (3) Mobile Food Concessionaire design shall include weather protection which prevents water from dripping or snow from sliding onto areas where pedestrians gather and circulate or onto adjacent properties.
 - (4) Exterior siding materials shall be of workmanlike quality and maintained in good repair.
 - (5) Garbage storage shall be screened from public view and City trash cans shall not be the primary receptacle(s) for rubbish disposal. Garbage storage containers shall include lids to avoid unsightliness and mitigate access by local wildlife.
- b. Circulation Design: Public queuing and circulation resulting from the Engaging in or Conducting of Business shall be contained on private property.
 - c. Snow Storage: Snow storage areas shall not be less than thirty percent (30%) of the improved pedestrian circulation area.
 - d. Essential Services:
 - (1) A public restroom is available within five hundred (500) feet or a screened porta-potty and separate handwashing station is provided on-Site.
 - (2) Water and sewer services, including grease traps for food services, shall be provided at owner's expense and subject to City approval.
- C. Consideration of Application: The City Clerk and City Staff shall have thirty (30) days to consider and approve or deny an application pursuant to this Chapter. The time for action upon an application may be extended by the City Clerk in cases where the complexity of the project or changes made by the applicant during the review process require additional time to properly review and consider the application. Following expiration of the comment period identified in subsection A of this section, and upon a finding by the City Clerk and City Staff that the application conforms to the requirements of this Chapter, the City Clerk shall issue a license to the applicant unless the City Clerk and City Staff finds one (1) or more of the following to be true:
- 1. The applicant is under eighteen (18) years of age and the applicant's application lacks a signature of authorization from the applicant's parent or legal guardian;
 - 2. The applicant is overdue in his/her payment to the City of taxes, fees, fines or penalties assessed against or imposed upon the applicant;
 - 3. The applicant has failed to answer or falsely answered a question or request for information on the Mobile Food Concessionaire Permit application form provided;

4. The applicant has failed to provide proof of a license, permit, certification, or inspection required by this Chapter or by the laws of the state for the operation of the proposed business;
5. The applicant, his/her employees and agents, individually or cumulatively, have been convicted of two (2) violations of this Chapter, other than the offense of operating a business without a license, within the two (2) years immediately preceding the application. A plea of guilty or no contest in any court of law constitutes a conviction for purposes of this section. The fact that a conviction is being appealed shall have no effect;
6. The required fees have not been paid;
7. The applicant has failed to comply with the terms of this Chapter;
8. The applicant has failed to comply with or the proposed business will violate an applicable law, ordinance or regulation of the City;
9. The applicant's Vending business or method of Vending will interfere with traffic flow on public ways or interfere with the public health, safety and welfare; or
10. The applicant's proposed Mobile Food Concessionaire fails to comply with design review standards.

D. Denial of Application: If the City Clerk and/or City Staff finds that one (1) or more of the items listed in subsection C of this section are true, the City Clerk shall deny the application and send to the applicant by certified mail, return receipt requested, a written statement setting forth the reasons for the denial and notifying the applicant of his/her right to appeal pursuant to section 4-9-19 of this Chapter.

4-9-10: PERMIT NOT TRANSFERABLE:

A Mobile Food Concessionaire Permit issued pursuant to the provisions of this Chapter shall not be transferable.

4-9-11: PERMIT SITE:

- A. The Permit Site shall be determined by the City Clerk and City Staff based upon the availability of space, the congestion which may result, and other factors related to the public health, safety, and welfare.
- B. No Mobile Food Concessionaires shall be permitted in any Residential, Agricultural, or Industrial Zone in the City.
- C. No Mobile Food Concessionaires shall be permitted in any state parks.

- D. Only one (1) Mobile Food Concessionaire shall be allowed to operate on each Permitted Site.
- E. Mobile Food Concessionaires shall not exceed one (1) Mobile Food Concessionaire per City block and shall be restricted based on a first-come, first-serve basis, unless the Vendor has sought and received a Special-Conditional Use Permit that provides otherwise pursuant to Cascade City Code 3-1-13(D).
- F. Vacant land within Commercial Zones and/or Recreational Zones may have up to one (1) permitted Mobile Food Concessionaire for every eight hundred (800) square feet with a maximum of six (6) Mobile Food Concessionaire Permits for every such Site or combination of such Sites including double lots that are vacant regardless of common ownership between the adjoining lots.

4-9-12: HOLD HARMLESS AND INDEMNITY AGREEMENT, LIABILITY INSURANCE, AND CONSENT AGREEMENT:

- A. Hold Harmless and Indemnity Agreement: Prior to the approval of a Mobile Food Concessionaire Permit, the applicant must provide a hold harmless and indemnity agreement to the City, in a form acceptable to the City.
- B. Liability Insurance: Prior to the approval of a Mobile Food Concessionaire Permit for a Mobile Food Concessionaire located on City-owned or public property, the applicant shall obtain public liability insurance naming the City as an additional insured in an amount not less than five hundred thousand dollars (\$500,000.00) for property damage and injuries, including injury resulting in death, caused by the operation of the applicant's Vending business. The applicant shall furnish the City with a certificate of public liability insurance, in a form acceptable to the City, from an insurer approved by the City. The certificate of insurance shall be for at least the term of the Vendor's Mobile Food Concessionaire Permit and shall not be subject to cancellation without thirty (30) days' actual notice to the City.
- C. Consent Agreement: In order to receive a Mobile Food Concessionaire Permit to operate a Mobile Food Concessionaire located on private property, the applicant shall provide, along with the other application requirements imposed by this Chapter, a Mobile Food Concessionaire Consent Agreement ("Consent Agreement") entered into and executed by the applicant and owner of said private property. Only the standard Mobile Food Concessionaire Consent Agreement provided by the City and made available to applicants at the office of the City Clerk shall satisfy the requirements of this section. The purpose and function of the Consent Agreement is to ensure that the owner of the private property where the applicant intends to locate the Mobile Food Concessionaire consents to the assumption all liabilities derived from the Mobile Food Concessionaire, consents to hold the City harmless, and consents to indemnify the City against any and all claims arising from the Mobile Food Concessionaire's location and operation. The applicant and the owner of the private property where the applicant will locate the Mobile Food Concessionaire shall, upon review and agreement, execute the Consent Agreement by mutually signing, dating and promptly furnishing a copy of the signed and dated Consent

Agreement to the City. Both the applicant and the owner of the private property are subject to and must comply with all provisions of the Consent Agreement as determined and provided for by the City.

4-9-13: DEPOSIT:

Before a Mobile Food Concessionaire Permit shall be issued under the provisions of this Chapter:

- A. With the exception of non-profit applicants, civic group applicants, and applicants exempt from the City sales tax ordinance, all Short-Term Mobile Food Concessionaire Permit applicants shall file with the City Clerk a deposit in the form of cash in the amount of fifty dollars (\$50.00) to the City, and all Seasonal Term Mobile Food Concessionaire Permit applicants shall file with the City Clerk a deposit in the form of cash in the amount of two hundred fifty dollars (\$250.00) to the City, to be applied towards satisfaction of the applicant's respective City sales tax obligations.
- B. Conditioned upon the satisfaction of applicant's City sales tax obligations, the City Clerk shall return the deposit to the applicant within sixty (60) days after the termination date of the applicant's Mobile Food Concessionaire Permit. Said deposit shall at all times remain separate from applicant's tax obligations and shall not be applied against any such tax obligations.
- C. After receiving two successive Seasonal Term Mobile Food Concessionaire Permits, and upon full compliance with the City sales tax procedures and provisions of this Chapter throughout the period of each successive term, the deposit requirement stated in this section may be waived upon the written request of the qualifying Mobile Food Concessionaire Permit holder.

4-9-14: EXHIBITION OF ALL NECESSARY LICENSES, PERMITS, CERTIFICATIONS, AND INSPECTIONS:

The following licenses, permits, certifications, and inspections, or proof thereof deemed sufficient under the discretion of the City Clerk and/or City Staff, shall be displayed in such a way as to be easily read by the public while a Vendor is Engaged in or Conducting Business:

- A. A corresponding Business License from the City Clerk pursuant to Title 4, Chapter 7 Business Licenses;
- B. A corresponding Central Health District Certification pursuant to section 4-1-3(E) of Title 4, Chapter 1 Peddlers and Solicitors, and this Chapter, or written communication the applicant received from Central Health District confirming that the Mobile Food Concessionaire may operate without certification; and
- C. Proof of a corresponding fire department inspection and approval pursuant to section 4-9-9(B).

4-9-15: ADDITIONAL RESTRICTIONS APPLICABLE TO ALL MOBILE FOOD CONCESSIONAIRES:

- A. Mobile Food Concessionaires: Mobile Food Concessionaires shall not impede access to the entrance or driveway of any adjacent building or adjacent property.
- B. Handicapped Areas: No Vendor shall obstruct handicap access by conducting business within fifteen (15) feet of any handicapped parking space or access ramp.
- C. Removal of Trash: All trash or debris accumulating within twenty (20) feet of any Mobile Food Concessionaire shall be collected by the Vendor and deposited in a trash container on a daily basis. All such Vendors must provide trash receptacles adjacent to or as a part of their any Mobile Food Concessionaires.
- D. Prohibited Areas: Mobile Food Concessionaires are prohibited within fifteen (15) feet of a fire hydrant, fire escape, bus stop, loading zone or driveway of a fire station or police station.
- E. Noise: No Vendor may sound any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract public attention which substantially burdens a member of the public's enjoyment of life or property or substantially interferes with the public peace and comfort. The City retains sole discretion to either deny or allow exceptions to this prohibition where the City determines such use would not substantially burden a member of the public's enjoyment of life or property or interfere with the public peace and comfort.
- F. Air Pollution: Best practices, required manufacturers, and exhaust systems recommended or required by Central Health District shall be used to control exhaust, smoke, and fumes emanating from the Mobile Food Concessionaire, including from any associated generator or other device producing exhaust, smoke, and/or fumes.
- G. Utility services: In the event a Site has more than one (1) Mobile Food Concessionaire Permit, each Vendor is individually required to provide electricity, water, and access to wastewater. Extension of utility services is applicant's expense, including payment of applicable impact and inspection fees.
- H. Permits, License, Certifications, and Inspections: No Vendor may operate a Mobile Food Concessionaire without a corresponding Business License, Central Health District Certification, approved fire department inspection, and sales tax permit pursuant to section 4-9-4 and this section.

4-9-16: AUTHORITY TO INSPECT:

The City or the City's designee may, pursuant to the right of inspection provision of section 2-1-17, inspect any and all Mobile Food Concessionaires operating under this Chapter to determine

whether the Vendor is complying with the provisions of this Chapter, regulations established under this Chapter, and/or other applicable law.

4-9-17: REVOCATION OF PERMIT:

- A.** A Vendor's Mobile Food Concessionaire Permit shall be revoked if, after notice and hearing before the City Council, the City Council determines that any of the following causes exist:
1. The Vendor, or his/her employee or agent, individually or cumulatively, has been convicted in any court of two (2) violations of this Chapter or any other law concerning the sale or distribution of goods or services within a twelve-month (12-month) period. The fact that a conviction is being appealed shall have no effect;
 2. The Vendor has given false or misleading information or has withheld vital information in the material submitted to the City Clerk and/or City Staff during the application process;
 3. The Vendor has given false or misleading information or has withheld vital information in the course of Engaging in or Conducting the Business of Vending;
 4. Any violation of this Chapter;
 5. Cancellation of Central Health District certification due to uncorrected health or sanitation violations;
 6. Conducting the business of Vending in an unlawful manner or in such a manner as to constitute a breach of the peace or a detriment to the health, safety or general welfare of the public; or
 7. The Vendor or his/her employee or agent has intentionally or knowingly impeded a lawful inspection by the City, the City's authorized representative or any representative of another department of the City who has the authority to inspect the Vendor and/or his/her Vending procedure.
- B.** If the City or the City's authorized representative or any representative of another department of the City who has the authority to inspect the Vendor and/or his/her Vending procedure finds that one (1) or more of the causes listed in this section exist, the City Clerk shall send to the Vendor by certified mail, return receipt requested, notice of the hearing for revocation of the Vendor's Mobile Food Concessionaire Permit containing a written statement setting forth the reasons for the revocation and the time and the place of the hearing. Such notice shall be mailed, postage prepaid, to the Vendor at the Vendor's last known address at least fifteen (15) days prior to the date set for the hearing.
- C.** The City Council shall hold a hearing to determine whether any of the causes listed in this section exists. The City Council shall enter its decision within twenty (20) days after such hearing, which shall include the City Council's written findings of fact and conclusions of law separately stated. The time for entering of the City Council's decision may be extended by the City Council in cases where the complexity of the case requires

additional time for proper review and consideration by the City Council. The City Council shall transmit a copy of the decision to the Vendor.

- D. If a Vendor's Mobile Food Concessionaire Permit is revoked, the fee already paid for said permit shall be forfeited. A Vendor whose Mobile Food Concessionaire Permit has been revoked under this section may not apply for a new Mobile Food Concessionaire Permit for a period of one (1) year from the date the revocation took effect.

4-9-18: APPEALS:

- A. An applicant or adjacent property owner aggrieved by the action of the City in granting or denying the issuance of a Mobile Food Concessionaire Permit to the applicant shall have the right to appeal such action to the City Council.
- B. Such appeal shall be taken by filing with the City Council, within ten (10) days after any administrative decision regarding the Mobile Food Concessionaire Permit at issue, an appeal of that decision. Such appeal shall be in writing stating the reason for such appeal, with particularity, and shall be filed with the City Clerk prior to the expiration of the said ten (10) days; and
- C. The City Council shall set a time and place for hearing of such appeal, which hearing shall be held within twenty (20) days of the filing date of such appeal, and the City Clerk shall give notice of such time and place to the appellant, and publish one (1) notice thereof, requiring all other persons wishing to participate in such appeal to file with the City Clerk at least five (5) days prior to the time set for the hearing, a statement of their position, or appear at such hearing in support of their statement. Failure to file such statement or appear, either in-person or by teleconference, at the hearing shall be deemed a waiver of such appeal.

4-9-19: RENEWALS:

Mobile Food Concessionaire Permits may be renewed, provided an application for renewal and corresponding fees are received by the City no later than the expiration day of the current Mobile Food Concessionaire Permit. Applications received after that date shall be processed as new applications. The City Clerk and City Staff shall review each application for renewal to determine if the applicant is in full compliance with the provisions of this Chapter. If the City Clerk and/or City Staff finds that the application meets the above requirements, the City Clerk shall issue a new Mobile Food Concessionaire Permit.

4-9-20: PENALTIES:

- A. Misdemeanor: Any person who shall violate any provision of this Chapter shall be guilty of a misdemeanor and, upon conviction, subject to a fine of not more than one thousand dollars (\$1000.00) or imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day a violation continues shall be considered a separate offense, punishable as described in this section.

B. Civil Enforcement: Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of the provisions stated in this Chapter to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of a Mobile Food Concessionaire. These remedies shall be in addition to the penalties described in this section.

4-9-21: LOCAL-OPTION NON-PROPERTY TAX OBLIGATIONS:

All Vendors are subject to the local-option non-property tax imposed pursuant to Title 4, Chapter 8 Non-Property Sales Tax. Said taxes shall be paid on a monthly basis and are due and payable to the City Clerk on or before the 20th day of the succeeding month.

Section 2: Directing the City Clerk

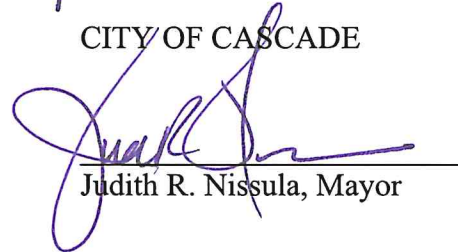
2.1 The City Clerk is directed to file this Ordinance in the official records of the City and to provide the same to the City's codifier for inclusion and publication in the Cascade City Code.

Section 3: Effective Date

3.1 This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law and at the discretion of the city clerk and in lieu of publication of the entire ordinance, a summary thereof in compliance with Section 50-901A, Idaho Code, may be published.

DATED this 22 day of May, 2023

CITY OF CASCADE



Judith R. Nissula, Mayor

ATTEST:



Janice Van Winkle, City Clerk

"W:\Work\C\Cascade, City of 22248\DWG\Ordinances\Food Truck Ordinance\2023.05.19 Mobile Food Concessionaire Ordinance No. 726 (FINAL).docx"

