

TOWN COUNCIL
TOWN OF GYPSUM, STATE OF COLORADO
ORDINANCE NO. 4 (SERIES 2022)

**AN ORDINANCE OF THE TOWN OF GYPSUM, COLORADO TO ADOPT
SECTION 21 TO THE GYPSUM MUNICIPAL CODE GOVERNING MOBILE
VENDING IN THE TOWN**

WHEREAS, the Town of Gypsum, Colorado (“Town”), is a home rule municipality of the State of Colorado, duly organized and existing under Article XX of the Colorado Constitution and the Gypsum Home Rule Charter effective October 21, 1982; and

WHEREAS, pursuant to Article 1.3 of the Charter, the Town has all power of local self-government and home rule and all power possible for a home rule municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, the Town Council has, by Ordinance, adopted Title 18 of the Gypsum Municipal Code (“Code”) regarding Zoning (“Zoning Code”), and

WHEREAS, the Town has seen an increase in mobile vendors operating throughout the Town, which provide both a valuable service and experience to the residents and visitors of the Town, and which also contribute to the Town’s sales tax; and

WHEREAS, the Town wishes to ensure that mobile vendors operate in a safe manner that does not impede vehicle or pedestrian traffic, negatively impact neighboring private property, or create unnecessary hazards; and

WHEREAS, the Town Council desires to amend Title 18 of the Code to add a new Chapter 18.21 which addresses mobile vending that occurs in the Town

NOW, THEREFORE, be it ordained by the Town Council of the Town of Gypsum, Colorado that:

Section 1. Adoption of Chapter 18.21 of the Gypsum Municipal Code. A new Chapter 18.21 of the Gypsum Municipal Code, Mobile Vending, as set forth on Exhibit A, is hereby adopted and codified in its entirety.

Section 2. Public Inspection. Copies of this Ordinance and the Gypsum Municipal Code are available for public inspection at the office of the Gypsum Town Clerk.


Section 3. Public Hearing. A public hearing on this Ordinance shall be held on the 10th day of May, 2022 at 7:00 p.m. at the Town of Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado.

Section 4. Effective Date. This Ordinance shall become effective as a permanent Ordinance five (5) days after publication, following final adoption after a public hearing held on the 10th day of May, 2022, at 7:00 p.m., at the Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado.


Section 5. Severability. If any part, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF GYPSUM ON THE 10TH DAY OF MAY 2022 BY A VOTE OF 5 IN FAVOR AND 0 AGAINST.

TOWN OF GYPSUM


By: 
~~Stephen Carver, Mayor-Pro-Tem~~
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Attest: 
Becky Close, Town Clerk

INTRODUCED ON SECOND READING, READ, CONSIDERED AT A PUBLIC HEARING AND FINALLY ADOPTED, PASSED AND APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED POSTED AND PUBLISHED, BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE AND PASSED AT ITS MEETING HELD ON THE 24TH DAY OF MAY 2022 BY A VOTE OF 6 IN FAVOR AND 0 AGAINST.

TOWN OF GYPSUM

By: 
Stephen Carver, Mayor



Attest: 
Becky Close, Town Clerk

CHAPTER 18

Chapter 18.21 MOBILE VENDING

18.21.010 Purpose and Intent.

The purpose of this Chapter is to promote the public health, safety and welfare through the permitting and regulations of mobile vendors who operate within the Town of Gypsum. The Town Council recognizes that mobile vendors provide value to the Town in the form of jobs, services, sales tax revenue, and entertainment. The provisions of this Chapter are intended to:

- A. Preserve the unique character of the Town of Gypsum;
- B. Protect the public from safety, sanitation, parking, and other hazards and nuisances that could result from mobile vending; and
- C. Ensure mobile vending occurs only on properties that are compatible in use, location, size, and parking availability for mobile vending.

18.21.020 Definitions.

As used in this chapter, unless the context requires otherwise:

- (1) *Area of Operation* means the area with a 30-foot circumference of the mobile vendor vehicle unless otherwise specified through a mobile vending permit.
- (2) *Long-term mobile vending* means mobile vending that occurs on the same property for a time period exceeding three consecutive days, or totaling more than 10 days within a 365-day period. For purposes of "long-term mobile vending", any part of a 24-hour period in which mobile vending occurs, regardless of total length or duration, is considered a "day."
- (3) *Mobile food vendor* means a retail establishment that provides food services from a mobile vendor vehicle.
- (4) *Mobile vending* means the sale, or intent to sell or offer to the public, any services, goods, wares, or merchandise, including without limitation food or beverage, from a mobile vendor vehicle.
- (5) *Mobile vendor* means a person who sells or attempts to sell, or offers to the public, any services, goods, wares, or merchandise, including without limitation food or beverage, from a mobile vendor vehicle.
- (6) *Mobile vendor vehicle* means a truck, trailer, pushcart, wagon, mobile or temporary stand, motor vehicle or other vehicle, or other appurtenances used to conduct mobile vending; excluding authorized sales on a golf course which will not require a permit.
- (7) *Short-term mobile vending* means mobile vending that occurs on the same property for a time period not exceeding three consecutive days, and fewer than 10 total days within a 365-day period or a vendor who provides services from multiple locations within a single day. For purposes of "short-term mobile vending", any part of a 24-hour period in which mobile vending occurs, regardless of total length or duration, is considered a "day."
- (8) *Licensed mobile premises* means the area approved for the use of mobile vending pursuant to a mobile vending conditional use permit.

18.21.030 Mobile Vending Permit.

(1) Permit Required for Long-Term Mobile Vending. Any person or entity wishing to engage in long-term mobile vending within the Town of Gypsum shall obtain a Mobile Vending Permit. An application for such permit must be submitted to the Community Development Department on forms provided by the Town, and shall include the following information at a minimum:

(a) The location for which the permit is required. If on private property, a written and signed letter authorizing the use of the property for mobile vending by the owner will be required;

(b) A scaled drawing of the dimensions of the proposed mobile vendor vehicle, and any displays, signage, furniture, or other appurtenances thereto;

(c) A site plan of the property or properties in which the mobile vendor intends to operate, including an indication of whether the applicant is applying for a specific site designated for such use by the Town.

(d) A written plan for waste disposal. Signed approvals should be provided if another party's waste disposal dumpster or trash can is involved;

(e) Evidence of all required permits and licenses, including without limitation a Colorado sales tax license, a Town business license, Town building permits, and if the mobile vending activity includes any food product, a mobile retail food establishment license from the Eagle County Department of Public Health and Environment;

(f) Additional information may be requested by the planning department as appropriate to the particular application, or portions of the information required above may be waived by the planning director if it is deemed to be inappropriate to the particular application.

(2) Criteria. The Town may administratively approve an application for a long-term mobile vending permit if the application is complete based on the requirement of 18.21.030(1) and is appropriate based on the following criteria:

(a) Compatibility with this Code;

(b) Compatibility with the character of the surrounding area such that the increased utilization of property will not adversely impact neighboring properties with a specific concern towards ensuring that the parking can be handled on-site;

(c) Long-term mobile vending is permitted only in non-residential Zone Districts.

(d) Orientation and siting with respect to impact on adjacent properties and public ways;

(e) Landscaping, including without limitation surface materials, plants, benches, tables, and trash receptacles;

(f) Design, size, and placement of signage and awnings; and

(g) Appropriateness of lighting.

(3) Conditional approval. The Town may approve a mobile vending permit with reasonable conditions if such conditions would allow the application to comply with the above-referenced criteria. Such conditions shall be specified in the mobile vending permit.

(4) Modification to Permit. Any changes to location or scope of the long-term mobile vending will require the submission of a modified permit in which the changes are addressed and explained.

18.21.040 Standards of Conduct, Maintenance, Improvement, and Repairs

All long-term and short-term mobile vendors shall comply with the following standards:

- (1) The mobile vendor shall ensure that the area of operation is kept clean, free of trash, and in compliance with any applicable section of this Code, including being kept free of nuisances and outdoor storage. Mobile vendors shall empty and remove their trash from the area of operation upon the closing of any day of operation.
- (2) The mobile vendor shall post its hours and days of operation to the public with appropriate signage on or adjacent to its mobile vendor vehicle;
- (3) A long-term mobile vendor shall be open a minimum of 24 hours per week when parked on a permitted premises;
- (4) Parking must be accommodated either on the property in which the mobile vending takes place or through public parking spaces. It is unlawful for property owners hosting a mobile vendor on their property to prevent customers of the mobile vendor from utilizing the property's off-street parking;
- (5) Mobile vendors may not operate in public parking spaces in permitted non-residential zone districts without prior approval;
- (6) It is unlawful for a mobile vendor to operate within 20 feet of an intersection, or operate in any area so as to interrupt or interfere with the normal flow of vehicular traffic;
- (7) It is unlawful for a mobile vendor to stop or to place a mobile vending vehicle, food, tables, chairs or other fixtures, furniture, devices, generators, or awnings used to conduct the operations of a mobile vendor so as to obstruct the free travel of pedestrians or vehicles.;
- (8) It is unlawful to engage in mobile vendor operations upon any property without the express written permission of the owner;
- (9) Mobile vendors may only operate between the hours of 5:00 a.m. and 11:00 p.m.
- (10) It is unlawful for any person to operate as a mobile vendor within the Town without first obtaining a business license, Colorado sales tax license, and a mobile retail food establishment license from the Eagle County Department of Public Health and Environment if the vendor includes any food product;
- (11) It is unlawful for any person to operate as a long-term mobile vendor without first obtaining a mobile vending permit.
- (12) It is unlawful for any person to operate as a mobile vendor on public property without prior approval.

18.21.050 Suspension and revocation.

1. Grounds for suspension or revocation of a permit issued under this Chapter shall include, without limitation:
 - (a) A violation of any provision of the permit, this Chapter or any other applicable law;
 - (b) Conducting mobile vending activities in such a manner as to create a public nuisance or constitute a danger to the public health, safety and welfare;
 - (c) Failure to pay state or local taxes that are related to the operation of the business associated with the permit; or
 - (d) Fraud, misrepresentation or a false statement of material fact contained in the original or renewal permit application.

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2. The Town shall deliver certified written notice to the permittee and property owner stating the action taken and the reason supporting such action. The written notice may be hand-delivered to the permittee and property owner, emailed to the addresses provided on the application, and/or certified mail to the permittee's and property owner's last known mailing address. The Town intends for this Section 18.21.050 to supersede the revocation process set forth in Section 18.16.040(2) of the G.M.C.

18.21.060 Enforcement.

Enforcement of this chapter is pursuant to the provisions of 18.16.040.

18.21.070 Appeal

An appeal of any decision by the Town made pursuant to this Chapter, including denial, suspension, or revocation of a permit, may be made by filing with the Town a written notice of appeal to the Board of Adjustment, pursuant to the requirements and process set forth in Section 18.16.050.