

**CITY OF NORTH BONNEVILLE
ORDINANCE NO. 1011**

AN ORDINANCE OF THE CITY OF NORTH BONNEVILLE AMENDING NORTH BONNEVILLE MUNICIPAL ADDING A NEW CHAPTER 5.06 MOBILE AND ITINERANT VENDORS.

WHEREAS, the city wishes to encourage commerce within the city limits; and

WHEREAS, the mobile and itinerant vendors can provide new services to residents; and

WHEREAS, the city expects that by allowing mobile and itinerant vendors to do business in the city they are more likely to lease or build permanent space; and

WHEREAS, the city wishes to protect existing permanent businesses from possible unfair competition from businesses that are free from the overhead costs of permanent structures; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BONNEVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Creating Chapter 5.06 Mobile and Itinerant Vendors

Chapter 5.06, "Mobile and Itinerant Vendors" is hereby adopted and added as follows:

Chapter 5.06
Mobile and Itinerant Vendors.

Sections:

<u>5.06.010</u>	Purpose.
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<u>5.06.130</u>	Stationary vendor standards.
<u>5.06.140</u>	Mobile vendor standards.
<u>5.06.150</u>	Mobile vendor insurance requirement.
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<u>5.06.170</u>	Appeal.

5.06.010 Purpose.

The purpose of this chapter is to:

- A. Maintain the aesthetic attractiveness of city rights-of-way and city property, including without limitation the parks, ball fields, boat launch, open spaces and other city owned properties.
- B. Promote public safety and orderly movement of pedestrians and, where designated, drivers who use city rights-of-way and/or city property;
- C. Protect the city's business community by eliminating the inequity faced by stationary businesses that compete with itinerant and mobile businesses who may be operating without city business licenses and outside the regulatory authority of the city, which unfair competition threatens to erode city tax revenues and undermine the strength of its commercial life;
- D. Reduce the potential for urban blight by encouraging development of permanent structures from which businesses can operate in the city;
- E. Establish better recordkeeping and data collection practices which can assist police in improving safety and reducing crime throughout the city; and
- F. Promote compliance with relevant building, fire, health and safety codes by those who wish to conduct business within the City of North Bonneville.

5.06.020 Definitions.

Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

"Concessionaire" means a person, firm or corporation engaged in the sale of food or other goods or services in a city park, on designated city rights-of-way, or on other city property, including without limitation those who operate or maintain a concession stand, in accordance with a written agreement or franchise therefor as lawfully approved in writing by the city.

"Food" has its usual and ordinary meaning, and includes all items designed for human consumption, including, but not limited to, ice cream, candy, gum, popcorn, hotdogs, sandwiches, peanuts, soft drinks, coffee and dairy products.

"Itinerant vendor" means a person, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of the city or not, who engages in a business of selling goods, wares, food, fishing bait or gear, merchandise of any kind or description and who commonly conducts such business either (a) in or about a structure that is not permanently affixed to real property, or (b) by traveling from place to place, customer to customer, or client to client (as such terms are commonly known) for the purpose of conducting business with customers or clients located within the City of North Bonneville. A person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with a local dealer, trader, merchant or auctioneer, or by conducting such

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

“Mobile vendor” means an itinerant business operator or vendor who conducts business from a vehicle or other conveyance upon public streets, sidewalks, alleys, or other public ways of the city.

“Public celebration” means the Gorge Days, Car Show or any other kind of public celebration designated by the city council, including the associated activities and concessionaires that might be authorized during such period.

“Stationary vendor” means an itinerant vendor who conducts business (a) from a vehicle or other conveyance, or (b) in or about a structure that is not permanently affixed to real property. Such vendors shall be located upon privately or publicly owned property that is zoned for commercial use, but not on a public street, sidewalk, alley or public way of the city.

5.06.030 License – Required.

It is unlawful for an itinerant business operator or vendor to engage in business within the City of North Bonneville except when licensed as a stationary or mobile vendor in compliance with the provisions of this chapter. A separate license shall be required for each location of a stationary vendor and for each vehicle or other conveyance engaged by a mobile vendor.

5.06.040 Exemptions.

The following activities, businesses, and/or persons, as such are commonly known, shall be exempt from coverage of this chapter, but this exemption shall not be construed to limit or restrict the application of other laws and regulations pertaining to such activities, businesses and/or persons:

- A. Newspaper couriers;
- B. Lemonade stands;
- C. Delivery or distribution of food, goods or products ordered or purchased by customers from a source or point of sale other than a mobile vehicle operated for the purpose of soliciting customers while travelling or while located on city streets or property;
- D. Delivery or distribution of food or goods by or for any not-for-profit organization, governmental agency, or other charitable organization, including without limitation Meals on Wheels and the Food Bank; and
- E. Concessionaires as defined in this chapter, except that concession agreements with the city shall include health, sanitation and insurance requirements generally conforming to those established for similar businesses and vendors covered by this chapter.

5.06.050 Limitation on activities permitted by stationary vendor license.

Stationary vendors shall be limited to the business of selling Christmas trees, fireworks, flowers, produce or food.

5.06.060 Limitation on activities permitted by mobile vendor license.

Mobile vendors shall be limited to the business of selling food.

5.06.070 Application.

A person, firm, or corporation desiring to secure a license as a stationary or mobile vendor shall make application to the city on forms approved by the city. In addition to any items required by written order of the city, which shall be kept on file by the city, such application shall provide:

- A. The name or names and address of the applicant, vehicle license numbers of all vehicles from which the applicant proposes to conduct business; description of the general type of goods, wares, merchandise or food proposed to be sold by the applicant; the place or places where the applicant proposes to engage in business.
- B. Each application shall be accompanied with the applicable application and/or license fee as established in this chapter, or as lawfully adjusted by the city, which fee schedule shall be on file with the city.
- C. Each license application for a stationary vendor shall be accompanied with the following information to establish compliance with NBMC 5.06.130 (Stationary vendor standards) and other applicable codes:
 1. A notarized written authorization from the business owner (or property owner, if different than the license applicant) to conduct the applicant's business at the place so noted on the application.
 2. A statement explaining the method of trash and litter disposal being proposed by the vendor.
 3. A drawing of a scale not greater than 50 feet per inch and not less than 10 feet per inch, which drawing shall depict the following information:
 - a. The portion of the property to be occupied by the business;
 - b. The portion of the property to be used for automobile parking and the number of automobiles accommodated in said area;
 - c. The location of driveways providing ingress and egress to the property;
 - d. The location of existing buildings and structures located on the property noting the use of each building or structure so identified; and
 - e. The proposed placement of any lighting or signage on or about the vehicle, conveyance or other nonpermanent structure from which business is to be conducted.
 4. A description of any equipment or devices that will generate noise of any sort in or about the vehicle, conveyance or other nonpermanent structure from which business is to be conducted.

5.06.080 Investigation and determination.

Upon receipt of such application, the city shall cause such investigation of such person's or persons' business responsibility to be made as is deemed necessary to the protection of the public good and shall refer the application to the planning department for its determination as to compliance with standards and requirements of this chapter. An application shall be denied by the city upon written findings that the applicant's business responsibility is unsatisfactory or that the proposed business activity will violate any applicable law, rule or regulation. A license issued under this chapter shall contain the number on the license, the date same was issued, the nature of the business authorized to be carried on, the amount of license fee paid, the expiration date of said license, the place where said business may be carried on under such license and the name or names of the person or persons authorized to carry on the same. The city shall keep a record of all licenses issued under this chapter.

5.06.090 Fees.

Pursuant to NBMC 5.06.070, applications shall be submitted to the city on such forms together with a registration fee as set by resolution of the city council. A separate application and license shall be required for each location of a stationary or mobile itinerant vendor.

5.06.100 Expiration of license.

A license issued under the provisions of this chapter shall expire at the end of the calendar year for which it was purchased.

5.06.110 Exhibition of license – Transfer.

A license issued under this chapter shall be posted conspicuously at the place of business authorized therein and shall not be transferred to any other person, firm, corporation or location.

5.06.120 Health regulations.

All food vendors shall comply with all laws, rules and regulations regarding food handling and all vehicles, equipment, devices or structures used for the preparation, handling, storage, transportation and/or sale of food shall comply with WAC 246-215-050, as presently worded and as may be amended by law, in addition to any other rules and regulations respecting such vehicles, equipment, devices or structures as may be established by the county health department.

5.06.130 Stationary vendor standards.

In addition to any other requirements set forth in this chapter or otherwise provided by law, all stationary vendors licensed under this chapter shall conform to the following standards:

- A. Geographical Restrictions. No stationary vendor shall sell or vend within 300 feet of the entrance to a business establishment which is open for business and is offering for sale the same or similar product as an item offered for sale by the stationary vendor.
- B. Stationary vendors shall only be licensed for locations in the CBD, C-1, MU, I/BP and CR zones.
- C. Stationary vendors shall locate their vehicle, other conveyance, temporary stand or merchandise in accordance with any setback requirements as determined by the city.
- D. No signs or signage shall be permitted other than that which can be contained on the vehicle or conveyance utilized to sell and other signage as allowed in the location's zone.
- E. No vehicle, other conveyance or temporary stand shall locate closer than 50 feet from flammable combustible liquid or gas storage and dispensing structures.
- F. All stationary vendors shall place at least one 30-gallon garbage receptacle upon the site of business for customer use.
- G. Licensed stationary vendor sites shall be cleaned of all debris, trash and litter at the conclusion of daily business activities.
- H. All merchandise, goods, wares or food shall only be displayed or offered for sale from the vendor's licensed conveyance or stand.
- I. All vehicles, other conveyances, or temporary stands shall be equipped with at least one 2A-40-BC fire extinguisher.

5.06.140 Mobile vendor standards.

All mobile vendors licensed under this chapter shall conform to the following standards:

- A. Geographical Restrictions. No mobile vendor shall sell or vend from his or her vehicle or conveyance:
 - 1. Within 400 feet of a public or private school grounds during the hours of regular school session, classes, or school-related events in said public or private school, except when authorized by said school; or
 - 2. Within 300 feet of the entrance to a business establishment which is open for business and is offering for sale the same or similar product as an item offered for sale by the mobile vendor; or
 - 3. Within 300 feet of a restaurant, cafe, or eating establishment which is open for business; or
 - 4. Within 300 feet of a public park of the city where a city authorized concession stand is located during times other than during the course of a public celebration except as approved by the city; or
 - 5. Within 300 feet of other city property where a city authorized concession stand is located during the course of a public celebration when nonprofit organizations are permitted to engage in the sale of merchandise and food; or
 - 6. Within any one block for more than one hour in any four-hour period; except this shall not apply in those situations where the mobile vendor is serving organized and sanctioned community-sponsored ball games at public

parks and schools provided there is no city-approved concession in the park or at the school.

- B. No mobile vendor shall conduct business so as to violate any ordinances of the city, including those regulating traffic and rights-of-way, as now in effect or hereafter amended.
- C. No mobile vendor shall obstruct or cause to be obstructed the passage of a sidewalk, street, avenue, alley or any other public place by causing people to congregate at or near the place where food is being sold or offered for sale.
- D. No customer shall be served on the street side of the mobile unit. All service must be on the curb side when the mobile unit is on or abutting a public street.
- E. All mobile vendors shall provide garbage receptacles for customer use.
- F. No mobile vendor shall locate his or her vehicle or other conveyance in such a manner as to cause a traffic hazard.
- G. At the conclusion of business activities at a given location the mobile vendor shall clean all the public way surrounding his or her vehicle of all debris, trash and litter generated by the vendor's business activities.
- H. All mobile vendors preparing food by cooking, frying or other means shall be equipped with at least one 2A-40-BC fire extinguisher.
- I. All mobile vendors shall conclude daily business activities at sunset.

5.06.150 Mobile vendor insurance requirement.

No license shall be issued to a mobile vendor selling from a truck or other motor vehicle unless a certificate is furnished to the city showing that the vendor is carrying personal injury and liability insurance in an amount not less than Five Hundred Thousand dollars, (\$500,000.00).

5.06.160 Revocation of license.

A license issued pursuant to this chapter may be revoked, in writing, by the city for any of the following reasons:

- A. Any fraud, misrepresentation or false statement contained in the application for license;
- B. Any fraud, misrepresentation or false statement made in connection with the selling of products;
- C. Any violation of this chapter;
- D. Conviction of the licensee of a felony or of a misdemeanor involving moral turpitude; or
- E. Conducting the business licensed under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- F. Termination of licensee's license agreement with the city by default or otherwise under its terms.

5.06.170 Appeal.

A person aggrieved by the denial of an application for a license, a license renewal, or by the revocation of a license as provided for in this chapter shall have the right to appeal such administrative decision to the city council.

Section 4. Severability.

If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Effective Date and Publication.

This Ordinance shall be effective five days after publication of the Ordinance, or a summary thereof consisting of its title, in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 25th, 2012.

Don Stevens, Mayor

ATTEST:

John Spencer, City Clerk

APPROVED AS TO FORM:

Ken Woodrich, City Attorney