

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to mobile food vendors, providing regulations, conditions and licensing requirements for mobile food vending; adopting a new chapter 10.51 to Title 10 of the Spokane Municipal Code; amending SMC 10.40.010; adopting a new SMC 8.02.0233 to chapter 08.02 SMC; and amending Appendix B in SMC 4.31.040.

The City of Spokane does ordain:

Section 1. That there is adopted a new chapter 10.51 to Title 10 SMC, Division II as follows:

**Chapter 10.51  
Mobile Food Vendors**

Sections.

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**10.51.010 Permit Required**

No person may operate a mobile food vending unit within the City of Spokane without first obtaining a mobile food vendor permit under this chapter.

**10.51.020 License Class**

Mobile food vending permits are Class III E licenses as provided in chapter 4.04 SMC.

**10.51.030 Definitions**

- A. “Adjoining Private Property Owner” means the owner of property, as reflected in the records of the Spokane County assessor, contiguous and immediately adjacent to the right of way as determined by extending the existing property lines to the centerline of the street as though such right of way were included in the property.
- B. “Mobile food vendor” means a person or persons owning, operating, or working in a mobile food vending unit and is the permit holder and person in charge of a mobile food vending unit under the provisions of the Washington state administrative code, WAC 246-215-121 and the rules of Spokane regional health district. A mobile food vendor as defined herein is not an itinerant vendor for the purposes of chapter 10.40 SMC, Itinerant Vendors.
- C. “Mobile food vending unit” means a readily movable food service establishment such as a push cart, van, trailer, or a temporary/movable structure approved for mobile food vending by Spokane regional health district. It provides space for limited storage, handling, and/or dispensing of foods. The entire operation must be contained within/on the mobile unit, except that expansion of the operation will be allowed in conjunction with an approved temporary event as allowed under the rules of the Spokane regional health district.

**10.51.040 Exceptions**

Mobile food vendors must operate in accordance with the provisions of this chapter except as follows:

- A. Limited special event vending.  
Mobile food vendors may vend from a location in a zone which is not otherwise approved for mobile food vending, including residential zones, under the following conditions:
  - 1. The owner of the property where such event will occur has invited the mobile food vendor to participate in a special event approved by the City, such as a community event, neighborhood block party, wedding, or birthday party, and mobile food vending is part of the approved special event activities.
  - 2. The mobile food vendor will not advertise its services or products to the general public while in attendance at such event and should limit its services and products to the attendees of such events.
  - 3. The mobile food vending unit may not remain at the location for longer than the duration of the special event and while there must be located so as to avoid creating conflicts with pedestrian or motor vehicle traffic or creating other public safety problems.

4. Mobile food vendors who operate in accordance with this exception do not require additional permits or approvals but must have and maintain all other licenses and approvals necessary to lawfully operate as a mobile food vendor within the City of Spokane.
- B. Mobile food vendors who operate for six days or less annually within the City of Spokane shall be considered temporary food establishments and are exempt from the permitting requirements of this section but must otherwise comply with all other standards contained within this chapter.
- C. The provisions of this chapter do not apply to mobile caterers who are engaged in the business of transporting, in motor vehicles, food and beverages to residential, business and industrial establishments pursuant to prearranged schedules and dispensing from the vehicles the items to and for the convenience of the personnel or occupants of such establishments.
- D. Mobile food vendors who vend from very small pushcarts (twenty cubic feet of cart or less) on the public sidewalk and do not remain in any one place for more than ten minutes may choose to operate in accordance with the provisions of the itinerant vendor permit, SMC 10.40.010.

**10.51.050 Mobile Food Vending From Or Onto The Public Right Of Way**

- A. When vending from or onto a location or locations within a public right of way including a public sidewalk or plaza, the mobile food vendor's permit must contain approval for the vendor to vend at that particular location or locations. The approval is subject to the following requirements:
  1. The vending location must be within a zone wherein mobile food vending is a permitted use pursuant to SMC Title 17C.380.
  2. The vendor must obtain and provide to the director of planning and development services, the written consent from the owner(s) of the adjoining private property or their authorized representative, as to the use and location of the mobile food vendor on the right of way adjoining their property(ies);
  3. The vendor shall comply with all applicable parking regulations;
  4. The vendor must setup and operate the mobile food vending unit so as to maintain a minimum five foot clear pedestrian pathway, twenty feet in both directions from the food vending unit along the public sidewalk at all times;
  5. Approval of a mobile food vendor permit which includes the approval to vend from a particular location in the public right of way does not confer nor guarantee any exclusive right to an identified location. All locations

within the public right of way are based on a first come, first served basis, there are no designated parking spots or sidewalk locations for specific mobile food vendors.

6. The vendor acknowledges that the Spokane police department, or any authorized representative thereof, has the right to close down or request the food vendor to relocate when, in the opinion of the department, the vendor is causing or contributing to an imminent public safety hazard.
7. The mobile vending unit may not be within seventy five feet of the front entrance of an existing restaurant without the written consent of the owner or authorized representative of the restaurant owner.
8. The applicant shall comply with the terms and conditions of the mobile food vendor permit issued, and shall maintain the sidewalk in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by an appropriate City officer such as the chief of police or fire official or their authorized representatives.

**10.51.060 Mobile Food Vending Located Entirely On Private Property**

- A. When vending from or onto a location or locations on private property where all mobile food vending activity takes place entirely on private property, the mobile food vendor's permit must contain approval for the vendor to vend at that particular location or locations. The approval is subject to the following requirements:
  1. The vending location must be located within a zone wherein mobile food vending is a permitted use pursuant to SMC Title 17C.380.
  2. The mobile food vending unit will be subject to the same land use and development standards applicable to the property as if the unit were a permanent structure, except that a mobile food vendor shall not be required to make any additional site improvements when:
    - a. The mobile food unit will be located on an existing paved parking area that will continue to provide sufficient space for required off street parking and circulation for any other existing uses on the property;
    - b. The mobile food unit is a licensed, wheeled vehicle and the wheels will not be removed;
    - c. Any canopies, awnings or any other attachments are supported entirely by the mobile food unit and do not touch the ground;

- d. The mobile food unit is self-contained, with no plumbing connections; and,
  - e. The mobile food unit will not be used for “drive thru” vending.
  - f. Temporary seating, sandwich board signs, refuse collection containers and other temporary appurtenances may be allowed.
2. The vendor shall obtain and provide to the permit authority, a copy of the written consent from the owner(s) of the private property or their designated property manager, as to the use and location of the mobile food vendor on their property.

**10.51.070 Mobile Food Vending Located On Or Adjoining a City Park**

Mobile food vending is prohibited in City parks without the written consent of the Spokane park board or its designee. When vending in or adjoining a City park, the mobile food vendor’s permit must contain approval for the vendor to vend at that particular location or locations.

**10.51.080 Application**

- A. Application submittal requirements.  
Applications for mobile food vendor permits must be submitted on forms provided by the planning and development department which shall include the following information:
  1. The name and contact information including phone number, business address and mailing address of the applicant;
  2. The name and contact information of the registered owner of the mobile food unit, if different than the applicant;
  3. Address of all the fixed location(s) within the City of Spokane, if any, from which the mobile food vending unit is proposed to be operated from;
  4. A scaled drawing of the proposed fixed vending locations whether on public right of way or private property, showing existing improvements and the proposed placement of the mobile food vending unit;
  5. Proof of the insurance, as required under SMC 10.51.100;
  6. Proof of valid state and local business registrations, including registration numbers and date of issuance;

7. Proof that the mobile food unit has been inspected and is currently registered by state and local agencies as required by law;
8. Written consent from the adjoining property owner for location(s) where vending will take place from or onto public right of way;
9. Written consent from the property owner for location(s) where vending will take place entirely on privately owned property; and
10. A statement of the nature and type of goods or services to be sold.

B. Additional information.

The director of the planning and development department may require additional documentation of the applicant as deemed reasonably necessary prior to issuing the license.

**10.51.090                   Liquor Use And Sale Prohibited**

Liquor, as defined in RCW 66.04.010(16), as now existing or hereafter amended, may not be used or sold by any mobile food vendor.

**10.51.100                   Insurance Required**

An applicant for a mobile food vendor permit proposing to vend to or from any public property including public streets, sidewalks, plazas or parks shall, prior to issuance of such a permit, provide and maintain in full force and effect while the permit is in effect, public liability insurance in the amount specified by SMC 12.02.0730(B) to cover potential claims for bodily injury, death or disability and for property damage, which may arise from or be related to the use of the public property for mobile food vending purposes, naming the City as an additional insured.

**10.51.110                   Indemnity – Permit Revocation**

The applicant for a mobile food vendor permit shall deliver to the City, on a form supplied by the City, signed and acknowledge agreement by the applicant to defend, indemnify, and hold the City harmless from any and all claims, actions or damages or liabilities of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such mobile food vending unit. In addition, the agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that it may be suspended or revoked pursuant to the procedures set forth in SMC 4.04.080.

**10.51.120                   Requirements Not Cumulative**

The requirements of SMC 17G.010.201, obstruction of streets, and obstruction of sidewalks, shall not apply to a mobile food vendors validly licensed under this chapter, except as herein provided.

**10.51.130 Violation**

- A. This chapter is subject to the administrative provisions of chapter 4.04 SMC. In the event of an appeal, the hearing officer shall be the City of Spokane hearing examiner.
- B. Mobile food vendors must comply with all state and local laws.
- C. A violation of this chapter is a class 1 civil infraction. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

Section 2. That SMC section 10.40.010 is amended as follows:

**10.40.010 Itinerant Vendor Designation & Permit – When Required**

A regular or temporary business issued a registration under chapter 8.01 SMC must obtain a separate “itinerant vendor” permit from the City of Spokane taxes and licenses division under any of the following circumstances:

- A. Where the person is engaged in the business of selling or delivering goods or services within the City from a fixed or temporary location as an itinerant vendor, except those vendors operating under the provisions of chapter 10.51 SMC Mobile Food Vending shall not be considered itinerant vendors.
  - 1. Examples are people selling prepackaged food or wares from ~~<<mobile carts on the sidewalk or>>~~ roving vehicles in the streets, except mobile food vendors. (Cross Reference: SMC 8.01.220 and chapter 10.51 SMC.)
- B. Where the person travels from door to door as the principle means of conducting business offering, exposing for sale, or selling within the City any goods, merchandise, service or product.
- C. Where the person engages in any business in the City with no permanent location. (Cross Reference: SMC 8.01.070).
- D. A person who engages in constitutionally protected expressive activities in the public right-of-way shall not be required to obtain a business registration unless the person engages in business activities. Constitutionally protected expressive activities conducted in the public right-of-way shall include, but is not limited to, street performers. For the purposes of this section, a street performer means an individual, including street musicians, who performs any form of artistic

expression. The voluntary contribution of money or other items of value by members of the public to the individual in association with the expressive activity shall not result in the requirement of obtaining a business registration. A person who engages in constitutionally protected expressive activities in the public right-of-way must still comply with all other regulations regarding conduct in the public right-of-way.

Section 3. That a new section 8.02.0233 is adopted in chapter 08.02 SMC to read as follows:

**8.02.0233 Mobile Food Vendor Permit**

- A. The application fee for a new mobile food vendor permit under SMC 10.51.010 is forty dollars, plus ten dollars for each mobile food vending location included for approval.
- B. The fee for the annual renewal of a mobile food vendor permit is forty dollars, plus ten dollars for each new or changed mobile food vending location included for approval.

Section 4. That Appendix B, as referenced in SMC 4.31.040 and regarding levy of special assessments in the parking and business improvement area, is amended as follows:

**APPENDIX B**

a. Tenants. Subject to the exemptions specified in paragraphs d and e below, all tenant assessments shall be based upon square footage of space leased, except where noted in the following schedule. There shall be a minimum assessment of \$90.00. Each tenant within the PBIA shall be assessed notwithstanding the fact that the owner of the leased property also may be assessed.

Type of Tenant	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
Retail Tenants-Ground floor and skywalk	\$0.22	\$0.12	\$0.10	\$0.10	\$0.10	-0-
Office Tenants-Ground floor and skywalk	\$0.12	\$0.11	\$0.09	\$0.09	\$0.09	-0-
Office and Retail Tenants-Upper floors and basement	\$0.09	\$0.08	\$0.07	\$0.07	\$0.07	-0-
Manufacturing Tenants-outside a C-1 zoning district	\$0.09	\$0.08	\$0.07	\$0.07	\$0.07	-0-



Manufacturing Tenants-within a C-1 zoning district	\$0.03	\$0.03	\$0.03	\$0.03	\$0.03	-0-
Commercial Parking-per space assessment	\$3.00	\$2.50	\$2.00	\$2.00	\$2.00	-0-
Apartments-per unit assessment	\$4.00	\$3.50	\$3.00	\$3.00	\$3.00	-0-
Combined Tenant/Owner-Hotels and Motels- per room	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	-0-
<u>Mobile Food Vendors –per mobile vending unit</u>	<u>\$90.00</u>	<u>\$90.00</u>	<u>\$90.00</u>	<u>\$90.00</u>	<u>\$90.00</u>	<u>-0-</u>

b. Property Owners. Subject to the exemptions specified in paragraphs d and f below, property owner assessment shall be based upon current land values plus improvements, and shall be calculated at a rate per \$1,000.00 of total assessed value. There shall be a minimum assessment of \$90.00 per property parcel. The assessed value of such property shall be determined solely by reference to the records of the Spokane County Assessor (without regard to any exemptions that may be applicable thereto for the purposes of property tax collection). Each owner of property within the PBIA shall be assessed notwithstanding the fact that its tenants also may be assessed. Notwithstanding the foregoing, (i) governmentally-owned park property shall be assessed pursuant to paragraph c below, and (ii) hotels and motels will be assessed for both property and tenancy at one rate per number of rooms, as set forth in paragraph a above.

Type of Owner	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
Private, for profit entity (including individuals)	\$1.10	\$1.10	\$0.70	\$0.70	\$0.70	-0-
Government	\$0.80	\$0.80	\$0.60	\$0.60	\$0.60	-0-
Not-for-profit entity	\$0.60	\$0.60	\$0.40	\$0.40	\$0.40	-0-

c. Government Park Property. The City will levy an annual special assessment on any state or local government (including the City) on account of the park property such governmental entity owns within the PBIA at the rate of \$150.00 per acre.

d. General Exemptions. The following will be exempt from special assessment under paragraph a or b above: (i) any organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which is not a private foundation under Section 509(a) of the Code and is exempt from federal income taxation under Section 501(a) of the Code; (ii) residences (other than apartment complexes or other multi-family residences where the management organization or owner is assessed); (iii) governmental agencies exempt from taxation pursuant to state or federal law; (iv) vendors and concessionaires including machines, licensed by the City, located and

doing business in or on the street right of way, except mobile food vendors licensed pursuant to Title 10 SMC shall not be exempt; (v) theaters that principally present live performances; and (vi) organizations conducting business in the PBIA less than 30 days per year.

e. Tenant Exemptions. The following tenants will be exempt from special assessment under paragraph a above: (i) concessionaires at public events; (ii) vendors or entertainers in the streets and parks, except mobile food vendors licensed pursuant to chapter 10.51 SMC shall not be exempt; (iii) theaters which principally present live performances and not video or film shows; (iv) conducting business in the PBIA less than 30 days per year; (v) entities recognized under state or federal law as non-profit organizations; and (vi) emergency City services such as fire, police and medical care.

f. Property Owner Exemptions. The following property owners will be exempt from special assessment under paragraph b above: religious, charitable or social welfare non-profit organizations.

g. Proof of Exemption. Any ratepayer asserting an exemption shall have the burden of proving it qualifies for such an exemption.

PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date