

ORDINANCE NO. 1183

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, AMENDING TITLE 5, BUSINESS LICENSES AND REGULATIONS, OF THE KETCHUM MUNICIPAL CODE BY AMENDING CHAPTER 5.16, OFF SITE VENDORS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Ketchum is authorized to amend the city ordinance pursuant to Idaho Code Title 50, Chapter 9; and

WHEREAS, Title 5, Business Licenses and Regulations, of the Ketchum Municipal Code contains regulations related to off site vendors; and

WHEREAS, the 2014 Comprehensive Plan contains goals and policies regulated to furthering the vitality of downtown, protecting community character, expanding the economic base, serving the needs of residents and visitors, and promoting existing businesses; and

WHEREAS, the regulations in this ordinance balance the goal of promoting downtown vitality through allowing additional off site vendors while promoting existing businesses and their ongoing viability; and

WHEREAS, the Ketchum City Council, having reviewed the proposed text amendments, held public hearings on June 18th, July 2nd, and July 16th, 2018 found that the proposed amendments comply with the 2014 Comprehensive Plan;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KETCHUM

Section 1: SECTION 5.16.010 FINDINGS AND PURPOSE IS HEREBY AMENDED AS FOLLOWS:

It is found and declared that:

- A. The primary purpose of the public streets, sidewalks and other public ways is for use by vehicular and pedestrian traffic.
- B. Reasonable regulation of vending on public ways and private property is necessary to protect the public health, safety and welfare.
- C. The economic base of the city is tourism and related services such as, but not limited to, vending, and that maintaining and enhancing the appearance, character and beauty of the city is necessary to protect and promote the economic base and the general welfare of the community.

- D. It is the policy of the city to promote the protection of the public health, safety and welfare by the regulation of off site vendors operating inside the city.
- E. Reasonable regulation of off site vendors is necessary to ensure that any stand, food truck, or structure design and construction for purpose of off site vending is safe, orderly and harmonious with the appearance and character of the neighborhood and the city, and provides for safe and adequate pedestrian and vehicular traffic.
- F. Reasonable regulation of off site vendors is necessary to protect and conserve the economic base of the community, including property values, the promotion of new businesses, and on-going viability of existing business investment in permanent structures and sites.
- G. Regulating the number of off site vendors on public and private property requires balancing community and visitor expectations, service demands, and the promotion of community vibrancy in appropriate locations throughout the City.
- H. 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. (rd. 642 § 1, 1994)

Section 2: SECTION 5.16.020 DEFINITIONS IS HEREBY AMENDED AS FOLLOWS:

As used in this chapter:

ADMINISTRATOR: The planning and zoning administrator of the city of Ketchum, Idaho.

BUILDING INSPECTOR: The building inspector of the city of Ketchum, Idaho.

CITY: The city of Ketchum, Idaho.

CITY CLERK: The duly appointed city clerk of the city of Ketchum, Idaho.

CITY COUNCIL: The duly elected city council of the city of Ketchum, Idaho.

ENGAGE IN OR CONDUCT BUSINESS: The selling, soliciting, advertising or offering for sale any service or any item of personal property or real property, or any interest in such property.

FIRE CHIEF: The fire chief of the city of Ketchum, Idaho.

LICENSE SITE: Refers to the location of the site to be assigned in the vendors license.

MAYOR: The duly elected mayor of the city of Ketchum, Idaho.

OFF SITE LOCATION: To engage in or conduct business outside of any permanent building and/or deck or courtyard accessory to a permanent building. Subject buildings and/or accessory

decks and courtyards shall not include any public way within the city of Ketchum, Idaho. "Off site location" include vacant land. "Off-site location" shall include, but not be limited to, trailers, stands, booths, on foot or from any vehicle, bike or any other type of conveyance.

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

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 Ketchum, Idaho, or in, on or over which an easement exists in the name of or held by the city of Ketchum, Idaho, or which exists for the benefit and use of the public.

SITE: A single parcel of property within the city of Ketchum, 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 Ketchum for a period of time not to exceed four (4) consecutive days in one year.

STAND: Any newsstand, table, bench, booth, rack, handcart, tent, pushcart, food trailer, food truck or any other fixture or device which is used for the display, storage or transportation of articles offered for sale by a vendor.

VACANT LAND: include parcels of property within the City of Ketchum without a permanent building.

VENDING: The selling, soliciting, advertising or offering for sale any service or goods, such as, but not limited to, any items of food, beverages, personal property or real property or any interest in such property.

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 goods or services. (Ord. 642 § 2, 1994)

Section 3: SECTION 5.16.080 FEES IS HEREBY AMENDED AS FOLLOWS:

- A. The license fee shall be paid in advance at the time of filing the application, and the fee for such license shall established by Resolution approved by the Council.
- B. The fees listed in this section shall not be prorated and are not refundable.
- C. A separate license fee, as identified in this section, shall be required for each separate vending stand, such as, but not limited to, each separate tent, cart or other form of stand. (Ord. 642 § 8, 1994)

Section 4: SECTION 5.16.100 ISSUANCE OF A LICENSE IS HEREBY AMENDED AS FOLLOWS:

- A. Investigation: When an application for vendor's license has been filed with the administrator in proper form, the administrator shall cause an investigation to determine the validity and completeness of the information presented in the application. In addition, the administrator shall provide written notice of such application to the owners of property immediately adjacent to the proposed off site 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 Required: The administrator is empowered to review all applications which propose that some form of stand will be used in furtherance of off site vending. The administrator shall review each proposed stand and approve or deny the same according to the evaluation standards set forth in this section.
 - 1. Materials And Information: The following materials and information, together with the application, shall constitute a complete application for design review, and shall be filed by the applicant with the administrator:
 - a. Photograph or drawing of proposed stand with dimensions.

 - b. Site utilization map in sufficient detail depicting the following:
 - (1) Exterior property lines of proposed license site(s), together with dimensions drawn to scale;

 - (2) Location(s) of the proposed stand and existing stands and other structures with dimensions showing the setback of each stand 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 the off site vending business;

 - (5) Location of any existing stands on adjoining properties;

 - (6) Location of dumpster and/or garbage can storage areas including the dimensions and proposed screening, and plan for removal of garbage;

 - (7) Location and dimensions of easements, private and public, within and adjacent to the proposed project, together with the purpose of such easements;

 - (8) Location of public restrooms if greater than five hundred feet (500') from an existing public restroom facility or, alternatively, a screened porta-potty and separate handwashing facility;

 - (9) Location of city water and service connection, including details on service metering, if greater than one license is proposed on a given site;

(10) Identification of measures to control smoke and fumes from emanating from the vending stand; and

(11) Indication of snow storage areas and direction of snow slide and drip line from roof of stand.

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 vendor stand. The administrator will use this list of design criteria as a basis to determine whether an application is to be approved or denied. The administrator 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. Evaluation Standards:

(1) Compatibility:

(A) The stand's materials, colors and signing shall be compatible with the townscape and adjoining structures. .

(B) The stand shall be set back no less than five feet (5') from any and all property lines of the site.

(2) Architectural Quality:

(A) There shall be continuity of materials, colors and signing within the project (neon and fluorescent colors are prohibited).

(B) Exterior lighting shall be downlit and shall not have an adverse impact upon other properties and/or public ways.

(C) Stand 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.

(D) Exterior siding materials shall be of natural wood or masonry origin or similar quality (metal siding is prohibited).

(E) Garbage storage shall be screened from public view and city trash cans shall not be the primary receptacle(s) for rubbish disposal.

(3) Circulation Design: Public queuing and circulation resulting from the off site vending business shall be contained on private property.

(4) Snow Storage: Snow storage areas shall not be less than thirty percent (30%) of the improved pedestrian circulation area.

(5) Essential services:

(A) A public restroom is available within five hundred feet (500') or a screened porta-potty and separate handwashing station is provided on-site.

(B) 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 administrator 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 administrator 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 administrator that the application conforms to the requirements of this chapter, the administrator shall issue a license to the applicant unless the administrator finds one or more of the following to be true:

1. The applicant is under eighteen (18) years of age;
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 vendor's license application form provided;
4. The applicant has failed to provide proof of a license or permit 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 license fee has 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 stand fails to comply with design review standards.

D. Denial Of Application: If the administrator finds that one or more of the items listed in subsection C of this section are true, the administrator 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 5.16.200 of this chapter. (Ord. 785 § 2, 1999; Ord. 642 § 10, 1994)

Section 5. SECTION 5.16.120 LICENSE SITE IS HEREBY AMENDED AS FOLLOWS:

- A. The location of a license vendor as permitted by this Section shall be determined by the administrator based upon the availability of space, the congestion which may result and other factors related to the public health, safety and welfare.
- B. The location of the site(s) to be assigned in the vendor's license shall be limited to locations within the community core district (CC), tourist district (T), tourist - 3000 zoning district (T-3000) and the tourist - 4000 zoning district (T-4000).
- C. Only one stand shall be allowed on each license site.
- D. Only one stand shall be allowed on the entire Town Plaza site. (Ord. 1041 § 1, 2008)
- E. In the CC, vacant land may have up to one licensed food truck or food trailer vendor for every eight hundred square feet (800 SF) with a maximum of six (6) vendor licenses for every site or combination of sites, including double lots that are vacant regardless of common ownership between the adjoining lots.

Section 6. SECTION 5.16.160 RESTRICTIONS APPLICABLE TO ALL VENDORS IS HEREBY AMENDED AS FOLLOWS:

- A. Stands: Vendor stands 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 feet (15') of any handicapped parking space or access ramp.
- C. Removal Of Trash: All trash or debris accumulating within twenty feet (20') of any vending stand shall be collected by the vendor and deposited in a trash container on a daily basis. All vendors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.
- D. Prohibited Areas: Vendors' stands are prohibited within fifteen feet (15') 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 renders the enjoyment of life or property uncomfortable or interferes with the public peace and comfort. (Ord. 642 § 16, 1994)
- F. Air Pollution: Best practices and required manufacturers and health department exhaust systems shall be used to control smoke and fumes emanating from the vending stand.
- G. Utility Services: In the event a site has more than one vendor license for a food truck or food trailer, each vendor shall be supplied with electricity, water and access to wastewater. Extension of utility services is applicant's expense, including payment of applicable impact and inspection fees.

H. Licensure: No vendor may operate without a business license, sales tax permit, and required health department certification.

Section 7. REPEALER CLAUSE. All City of Ketchum Ordinances or parts thereof which are in conflict herewith are hereby repealed.

Section 8. SAVINGS AND SEVERABILITY CLAUSE. It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid for any reason by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 9: PUBLICATION. This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form annexed hereto as Exhibit A shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

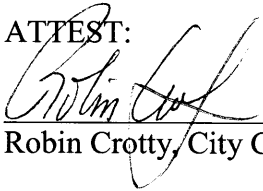
Section 10. EFFECTIVE DATE. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED by the CITY COUNCIL and APPROVED by the MAYOR of Ketchum, Idaho on July 16th, 2018.

APPROVED:


Neil Bradshaw, Mayor

ATTEST:


Robin Crotty, City Clerk



PUBLICATION SUMMARY OF ORDINANCE NO. 1183

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, AMENDING TITLE 5, BUSINESS LICENSES AND REGULATIONS, OF THE KETCHUM MUNICIPAL CODE BY AMENDING CHAPTER 5.16, OFF SITE VENDORS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING AN EFFECTIVE DATE.

A SUMMARY OF THE PRINCIPAL PROVISIONS OF ORDINANCE NO. 1183 OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, ADOPTED ON JULY 16TH 2018, IS AS FOLLOWS:

Section 1: Amends Section 5.16.010, Findings and Purpose, to expand the purpose of the ordinance to include food trucks, vendors on private property, and to reference community goals.

Section 2: Amends Section 5.16.020, Definitions, to define a license site, to amend the definition of off site location, to define vacant land, and to amend the definition of stand to include food trailers and food trucks.

Section 3: Amends Section 5.16.080, Fees, to allow fees to be established by a City Council resolution.

Section 4: Amends Section 5.16.100, Issuance of a License, to require health, sanitation, and snow storage standards.

Section 5. Amends Section 5.16.120, License Site, to permit one food truck or food trailer vendor per 800 square feet, with a maximum of six (6) vendors for every site or combination of sites, including double lots that are vacant regardless of common ownership between adjoining lots.

Section 6. Amends Section 5.16.160, Restrictions Applicable to All Vendors, to require best practices for controlling air pollution, to require each vendor to be supplied with electricity, water, and access to wastewater, and to prohibit operation without a license.

Section 7. Provides for a repealer clause.

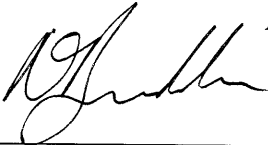
Section 8. Provides a savings and severability clause.

Section 9: Provides for publication of this Ordinance by summary.

Section 10. Establishes an effective date.

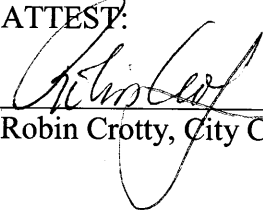
The full text of this Ordinance is available at the City Clerk's Office, Ketchum City Hall, 480 East Avenue North, Ketchum, Idaho 83340 and will be provided to any citizen upon personal request during normal office hours.

APPROVED:



Neil Bradshaw, Mayor

ATTEST:



Robin Crotty, City Clerk

