

<b>Kalispell Municipal Code</b>							
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## **15-12 Vendors on the Public Way.**

A. Definitions: When used in this Section 15-12, the following words, terms, and phrases, and their derivations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**GOODS, WARES, MERCHANDISE, SERVICES:** Shall include, but not be limited to, fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, wearing apparel, jewelry, ornaments, artwork, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks, camps, training, fundraising, or any time the public or clients are invited to an event upon city property or right-of-way, sponsored by or put on by a group, organization or individual.

**PUBLIC WAY:** All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

**SPECIAL EVENT:** Any occasion including, but not limited to, fairs, shows, parades, exhibitions, citywide celebrations, and festivals taking place within a specifically defined area of the City for a period of time not to exceed three (3) days.

**VENDOR:** Any person, traveling by foot, wagon, vehicle or any other type of conveyance from street to street carrying, conveying or transporting goods, wares or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, exhibits, displays, sells or offers for sale such products from a wagon, handcart, pushcart, motor vehicle, conveyance or from his or her person while on the public ways of the City of Kalispell. A "vendor" also includes any street vendor, hawker, huckster, itinerant merchant or transient vendor. This definition does not include a door to door peddler or solicitor.

B Permit Required: It shall be unlawful for any person to engage in the business of vending upon the public way unless he or she has first obtained a permit from the City of Kalispell parks department.

C. Application for Permit: The application for a vending permit shall contain all information relevant and necessary to determine whether a particular permit may be issued, including, but not limited to:

1. The applicant's full name, current address, telephone number and proof of identity;
2. A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale;
3. The specific location, if any, in which the vendor intends to conduct business;
4. If the applicant is employed the name and address of the person, firm, organization, company or corporation; another, the association;
5. If a motor vehicle is to be used, a description of the vehicle together with the motor vehicle registration number and permit number;
6. A complete listing of any other permits or permits issued to the applicant by the City within the five (5) years immediately preceding the date of the application;

7. A copy of applicant's insurance designating the City of Kalispell as an additional named insured for liability purposes at such limits as may be required by the City.

D. Health Inspection Certificate: Any application for a vending permit to engage in the sale of food or beverages shall also be referred to the Flathead County health department for approval and issuance of a State certificate of health inspection in addition to the regular vending permit. The applicant's equipment shall be subject to inspections by the health department at the time of application and at periodic intervals thereafter.

E. Issuance of Permit:

1. The applicant shall be notified in writing by the parks department director of the City's decision to issue or deny the vending permit not later than five (5) days after the applicant has filed a completed application with the department.

2. Each permit shall show the name and address of the permittee, the type of permit issued, the location of permitted use, the kind of goods to be sold, the amount of the permit fee, the date of issuance, the permit number, an identifying description of any vehicle or conveyance used by the permittee, a copy of their liability insurance designating the City of Kalispell as an additional insured, plus, where applicable, the motor vehicle registration number. Each permit shall also show the expiration date of the permit which is issued by the City.

F. Authorized Vending Zones: Except for special events, or otherwise authorized by this Code, vendors may only sell goods, wares or merchandise or services within the Kalispell City parks at those locations specifically allowed by the permit that is issued.

G. Special Events: Any vendor wishing to conduct business at a special event only shall apply to the City of Kalispell parks department for a temporary vending permit. Application for such a permit must be made at least ten (10) days prior to the beginning of the event for which the permit is sought. The permit shall be valid only for the duration of the special event. Any vendor to whom a temporary permit is granted shall be subject to the same operating regulations as all other vendors, except where otherwise specified.

H. Permit Fees: Any vendor granted a vending permit under this Section 15-12 shall pay an annual permit fee of fifty dollars (\$50.00). Fees for a special event permit shall be ten dollars (\$10.00) per event.

I. Removal of Vending Equipment: No vending station, conveyance or other item related to the operation of a vending business shall be located on any City sidewalk or other public way during nonvending hours. Nor shall any vehicle be parked, stored or left overnight other than in a lawful parking place.

J. Littering and Trash Removal:

1. Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their businesses. 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.

2. Persons engaged in food vending shall affix to their vending station, vehicle, pushcart or other conveyance a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

K. Prohibited Conduct: No person authorized to engage in the business of vending under this Section 15-12 shall do any of the following:

1. Unduly obstruct pedestrian or motor vehicle traffic flow;

2. Obstruct traffic signals or regulatory signs;
3. Stop, stand or park any vehicle, pushcart or any other conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings;
4. Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public space overnight;
5. Use any conveyance that when fully loaded with merchandise, cannot be easily moved and maintained under control by the permittee, his or her employee, or an attendant;
6. Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention;
7. Conduct his or her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

L. Penalties: The penalty for violating any provision of this Section 15-12 or any other applicable section of this Code shall be, in addition to any other sanctions provided, a fine not exceeding five hundred dollars (\$500.00) for each offense together with revocation or suspension of the vendor's permit or imprisonment not exceeding one hundred eighty (180) days, or both fine and imprisonment. Each violation shall be evidenced by a separate written notice presented at the time of citation for the offense. A hearing on each violation shall be required before any fines, suspensions or revocations can occur. Each day of violation shall be deemed a separate offense.

M. Suspension and Revocation of Permit.

1. In addition to the penalties contained in subsection L of this section, any permit issued under this Section 15-12 may be suspended or revoked for any of the following reasons:
  - a. Fraud, misrepresentation or knowingly false statement contained in the application for the permit;
  - b. Fraud, misrepresentation or knowingly false statement in the course of carrying on the business of vending;
  - c. Conducting the business of vending in any manner contrary to the conditions of the permit;
  - d. Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, or interfere with the rights of abutting property owners; or
  - e. Cancellation of Health Department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.
2. The Parks Director shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint and the grounds for suspension or revocation. Such notice shall be mailed to the address shown on the permit holder's application by certified mail, return receipt requested.
3. If the City revokes a vending permit or permits, the fee already paid for the permit or permits shall be prorated. A person whose permit or permits has been revoked under this section may not apply for a new permit for a period of one year from the date that the revocation took effect. (Ord. 1455, 5-19-2003; amd. Ord. 1609, 6-4-2007)