

CHAPTER 5.75 CONCESSIONS

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5.75.010: PURPOSE:

The purpose of this Chapter is to preserve and protect the health, safety, and general welfare of persons and property in the City by regulating the operation, location, and permitting of Concessions.

5.75.020: DEFINITIONS:

- A. Commercial Activity.** Any commercial display, enterprise, promotion, arts and crafts display, exhibit, or other commercial activity offering goods, wares, merchandise, or services for sale or rent.
- B. Concession.** Any establishment which is mobile, non-permanent, and/or temporary, and which vends products or services to the general public.
- C. Mobile Food Cart.** A cart or like device from which food and beverages are sold and which are designed to be propelled by human power alone.
- D. Mobile Food Concession.** A service establishment vending food or beverages, whether prepared on or off site, but not including the retail sale of food products in a raw, unprepared, or natural state, and which is operated from a vehicle, or mounted on a trailer that can be towed by a vehicle, or which is capable of being moved under its own power or otherwise.
- E. Mobile Food Court.** A parcel of land where two or more Concessions congregate to engage in Commercial Activity.
- F. Mobile Retail Concession.** An establishment, other than a Mobile Food Concession, displaying, selling, vending, hawking, or renting goods, wares, merchandise, or services, which is operated from a vehicle or mounted on a trailer that can be towed by a vehicle, or which is capable of being moved under its own power or otherwise.
- G. Non-Mobile Food Concession.** A temporary stand from which food and beverages are sold and which are not designed or intended to be moved from place to place.

H. Vendor. The owner of a Concession or the applicant for a permit under this Chapter.

I. Weapon. Any air rifle, air pistol, explosive, blasting caps, knife, hatchet, ax, slingshot, blackjack, metal knuckles, mace, iron buckle, baseball bat, ax handle, chains, crowbar, hammer, stick, pole, or other club or bludgeon or any other instrumentality, customarily used or intended for probable use as a dangerous weapon.

5.75.030: PERMITS; APPLICATIONS:

A. Permits Required.

1. All Concessions must have, and display for public view, the proper City permit when operating within the City limits.
2. A current Panhandle Health Department permit shall be continuously displayed in a conspicuous place on each Mobile Food Concession, Mobile Food Cart, and Non-Mobile Food Concession.
3. A separate application and permit shall be required for each individual Concession.
4. A Vendor shall not be required to obtain an individual permit under this Chapter if the Concession is included as part of a special event under a permit issued by the City to another entity. This exception shall apply only for the duration, and at the location, of the special event.
5. A Vendor shall not be required to obtain a permit under this Chapter to engage in limited private special event vending where the Vendor has been invited to cater a family or neighborhood party, or other private special event, and does not remain at the location for longer than the duration of the private special event.
6. Permits are nontransferable and nonassignable.

B. Classes of Permits.

1. Class A - Mobile Food Concession.
2. Class B - Mobile Food Cart
3. Class C - Non-Mobile Food Concession
4. Class D - Mobile Retail Concession.

C. Application.

1. Prior to operating a Concession, a Vendor shall complete an application on a form provided by the City and file it with the City Clerk. The application shall include:

a. If the Vendor is an individual, his/her legal name, date of birth, telephone number, and address; if a partnership, the business name of the partnership and the legal name, date of birth, telephone number, and address of each partner; if a corporation, the business name of the corporation and the legal names, telephone numbers, and addresses of its principal officers and all directors. The Vendor shall notify the City of any change in such information within five (5) business days;

b. If the Concession is to be operated by someone other than the Vendor, the name, date of birth, telephone number, and address for a responsible party retained by the Vendor to oversee day-to-day operations;

c. The name, telephone number, and address for the owner of the parcel on which the Concession will be located, and the name of the duly licensed Mobile Food Court in which it will operate, if any. The Vendor must also provide written authorization to operate the Concession on the parcel from the owner of said parcel. The Vendor shall notify the City of any change in such information within five (5) business days;

d. A description of the food, beverage, good, ware, merchandise, or service offered for sale or rent by the Vendor;

e. For a Class A, B, or C permit:

I. A letter or certificate of approval from Panhandle Health District;
and

II. Proof that all workers have a current Idaho Food Handlers Certificate.

2. Vendors of Concessions that will move about the City on a continuous basis, utilizing City streets or rights-of-way in residential zones, shall also provide

a. The Vendor's places of residence for the past five (5) years immediately preceding the filing of such application;

b. A list of every crime involving a controlled substance or minors of which the Vendor has been convicted within the five (5) years prior to filing the application;

c. Any information and fingerprints required by the City Clerk which is necessary to obtain criminal history information from the Idaho state police and the Federal Bureau of Investigation pursuant to Idaho Code § 67-3008 and congressional enactment Public Law 92-544. The Vendor shall tender the fee required for the criminal history check at the time the application is submitted;

d. The information required by §§ 5.75.030(C)(2)(a) through (c) for any employee, contractor, or agent of the Vendor who will operate said Concession;

e. No permit for such a Concession shall be issued to a Vendor if the Vendor, an operator of the Concession, a managing agent of the Vendor, or an active partner of the Vendor in the Concession has been convicted of a crime involving a controlled substance, minors, theft, or robbery within the previous five (5) years; and

f. The City Council shall have the right to revoke any permit once granted if it is discovered that the Vendor, an operator of the Concession, a managing agent of the Vendor, or an active partner of the Vendor in the Concession had been convicted of a crime involving controlled substances or minors within the five (5) years prior to submitting the application and failed to disclose such information. Revocation shall be accomplished pursuant to section 5.75.030(D)(2) and (3).

3. The City Clerk shall grant a permit if the application is complete and the applicable standards are satisfied.

D. Revocation of Permit.

1. It is unlawful for any Vendor or their agent or employee to operate a Concession in an unauthorized location, without a City permit, without a health department permit, or in violation of health department regulations. In addition to the penalty set out in § 5.75.080(B), the City Clerk may revoke a permit and, in addition, may order that no new permit shall be issued for up to three (3) years pursuant to the following procedures.

2. Prior to the revocation of any permit or the denial of a permit, application for a permit, or renewal thereof, written notice of reasons for such action shall be served on the Vendor in person or by certified mail at the address on the permit application. Revocation shall become final within ten (10) days of service unless the Vendor appeals the action. The Vendor shall make his appeal in writing to the City Council within ten (10) days of receipt of the notice.

3. Should the Vendor request an appeal within such ten (10) day period, the Vendor shall be notified in writing by the City Clerk of the time and place of the hearing. Should an emergency exist and the Chief of Police or the Fire Chief certify that there is an immediate danger to life or health, the permit may be summarily revoked pending the notice and hearing herein provided.

4. For good cause shown, the City Council may affirm or reverse the decision to revoke a permit. The City Council may affirm, reverse, or modify a decision to deny a new permit for a period up to three (3) years upon a showing of good cause.

5.75.040: CONCESSIONS ON PRIVATE PROPERTY; STANDARDS:

A. Class A and B permits.

1. Mobile Food Concessions and Mobile Food Carts located in a Mobile Food Court are subject to the following conditions and standards:

- a. The Vendor must possess a valid Idaho seller's permit.
- b. A trash and garbage disposal container capable of holding all trash and garbage generated by the operation of the Mobile Food Concession or Mobile Food Cart must be provided. The container shall be emptied periodically as necessary in order to ensure, at all times, public access to and use of the container. Each Vendor shall at all times keep the Mobile Food Concession or Mobile Food Cart and the immediate area (within 10 feet) free of litter, grease, and other debris which may result from its operation.
- c. The Vendor must comply with Chapter 15.24, Coeur d'Alene Municipal Code, the "Sign Code," with respect to any sign(s) for the Mobile Food Concession or Mobile Food Cart.
- d. The Vendor must schedule a safety inspection by the Coeur d'Alene Fire Department and meet the criteria on the Department's mobile vendor safety sheet. If tents will be used, the Vendor must obtain a tent permit from the Fire Department.
- e. Mobile Food Concessions and Mobile Food Carts shall be subject to the rules and regulations of the City's building department for any structure built or owned by the Vendor and used in conjunction with the business.
- f. Mobile Food Concessions and Mobile Food Carts shall be subject to the Idaho Plumbing Code.
- g. Disposal of wastewater must be performed via cleanout on site. If no cleanout on site is available, an alternate method of disposal must be approved by the Wastewater Utility prior to issuance of the permit.
- h. The method of grease disposal must be approved by the Wastewater Utility and a grease interceptor may be required.
- i. The Vendor must identify the source of potable water to be used by the Mobile Food Concession or Mobile Food Cart.

- j. No accessory seating or other appurtenances are allowed except as may be provided by the Mobile Food Court.
2. Mobile Food Concessions and Mobile Food Carts not located in a Mobile Food Court are subject to the following conditions and standards:
 - a. The Vendor must possess a valid Idaho seller's permit.
 - b. A trash and garbage disposal container capable of holding all trash and garbage generated by the operation of the Mobile Food Concession or Mobile Food Cart must be provided. The container shall be emptied periodically as necessary in order to ensure, at all times, public access to and use of the container. Each Vendor shall at all times keep the Mobile Food Concession or Mobile Food Cart and the immediate area (within 10 feet) free of litter, grease, and other debris which may result from its operation.
 - c. The Vendor must comply with Chapter 15.24, Coeur d'Alene Municipal Code, the "Sign Code."
 - d. The Vendor must schedule a safety inspection by the Coeur d'Alene Fire Department and meet the criteria on the Department's mobile vendor safety sheet. If tents will be used, the Vendor must obtain a tent permit from the Fire Department.
 - e. A Mobile Food Concession or Mobile Food Cart shall be subject to the rules and regulations of the City's building department for any structure utilized, built, or owned by the Vendor and used in conjunction with the business.
 - f. Disposal of wastewater must be performed via cleanout on site. If no cleanout on site is available, an alternate method of disposal must be approved by the Wastewater Utility prior to issuance of the permit.
 - g. The method of grease disposal must be approved by the Wastewater Utility and a grease interceptor may be required.
 - h. The Vendor must identify the source of potable water to be used by the Mobile Food Concession or Mobile Food Cart.
 - i. No accessory seating or other appurtenances are allowed.
 - j. A Vendor must be located on private property within a non-residential zone unless operating as part of a special event under a permit issued by the City to another entity.

B. Class C. Permit.

1. Non-Mobile Food Concessions shall not be allowed in a Mobile Food Court.
2. Non-Mobile Food Concessions shall be subject to the following conditions and standards:
 - a. The Vendor must possess a valid Idaho seller's permit.
 - b. A trash and garbage disposal container capable of holding all trash and garbage generated by the operation of the Non-Mobile Food Concession must be provided. The container shall be emptied periodically as necessary in order to ensure, at all times, public access to and use of the container. Each Vendor shall at all times keep the Non-Mobile Food Concession and the immediate area (within 10 feet) free of litter, grease, and other debris which may result from its operation.
 - c. The Vendor must comply with Chapter 15.24, Coeur d'Alene Municipal Code, the "Sign Code," with respect to any sign(s) for the Non-Mobile Food Concession.
 - d. The Vendor must schedule a safety inspection by the Coeur d'Alene Fire Department. Any tent or membrane structure used by as Non-Mobile Food Concession must pass a fire inspection and comply with fire resistance standard CPAI-84.
 - e. Disposal of wastewater must be approved by the Wastewater Utility prior to issuance of the permit.
 - f. The method of grease disposal must be approved by the Wastewater Utility.
 - g. The Vendor must identify the source of potable water to be used by the Mobile Food Concession or Mobile Food Cart.
 - h. No accessory seating or other appurtenances are allowed.
 - i. A Vendor must be located on private property within a non-residential zone unless operating as part of a special event under a permit issued by the City to another entity.

C. Class D permit.

1. Mobile Retail Concessions are subject to the following conditions and standards.
 - a. The Vendor must possess a valid Idaho seller's permit.

- b. All areas around the Mobile Retail Concession must be kept free of debris and refuse must be removed as needed.
- c. The Vendor must comply with Chapter 15.24, Coeur d'Alene Municipal Code, the "Sign Code."
- d. The Vendor must schedule a safety inspection by the Coeur d'Alene Fire Department and meet the criteria on the Department's mobile vendor safety sheet. If tents will be used, the Vendor must obtain a tent permit from the Fire Department.
- e. The Mobile Retail Concession shall be subject to the rules and regulations of the City's building department for any structure built or owned by the Vendor and used in conjunction with the business.
- f. No food or beverages may be sold.
- g. The Vendor must be located in a Mobile Food Court or on private property within a non-residential zone.
- h. The Vendor may not operate within 300 feet of a school or, if vending any type of weapon, within 600 feet of a school.

5.75.050: MOBILE CONCESSIONS ON PUBLIC PROPERTY; STANDARDS:

A. Public Streets, Sidewalks, Rights-of-Way, and Waterways.

1. Unless allowed by this section, no permit shall be issued to a Vendor of a Mobile Concession for Commercial Activity on City streets, sidewalks, rights-of-way, and waterways. However, nothing herein shall be construed to prohibit the City from entering into a lease of City property pursuant to Idaho Code § 50-1409 for Commercial Activity.
2. A Vendor of a Mobile Concession shall obtain the written consent of the adjoining and contiguous property owners for any Commercial Activity to be conducted on City streets, sidewalks, rights-of-way, and waterways.
3. The Vendor of a Mobile Concession must obtain City Council approval of the location and method of any Commercial Activity on City streets, sidewalks, rights-of-way, and waterways.
4. Outdoor eating facilities are permitted to be located in the public right-of-way upon compliance with Title 12, Chapter 12.44, Coeur d'Alene Municipal Code, and pursuant to standards and conditions adopted by Resolution of the City Council.

5. The display, sale, vending, or hawking of goods, wares, merchandise, or services on public sidewalks in the “downtown business improvement district” as defined by City of Coeur d’Alene ordinance 2293, may be permitted on public sidewalks upon compliance with Title 12, Chapter 12.44, Coeur d’Alene Municipal Code, and pursuant to standards and conditions adopted by Resolution of the City Council.

6. In the case of charitable organizations, recognized as such by the United States Internal Revenue Service, displaying, selling, vending, or hawking goods, wares, merchandise, or services that convey a religious, philosophical, political, or ideological message is allowed upon compliance with standards and conditions adopted by Resolution of the City Council.

7. Mobile Food Carts may operate on City streets, sidewalks, rights-of-way, and waterways with a permit under the following conditions and subject to the following standards:

a. A Mobile Food Cart may operate at approved locations only from sunrise until sunset of each day.

b. The Vendor must possess a valid Idaho seller’s permit.

c. The Mobile Food Cart shall be permanently numbered, and each City and Panhandle Health District permit will be correspondingly numbered and apply only to the respectively numbered cart.

d. The Vendor must comply with Chapter 15.24, Coeur d’Alene Municipal Code, the “Sign Code.”

e. The Vendor may not operate within one thousand two hundred feet (1,200') of a school, during the dates that school is in session. For purposes of this section, a “school” is defined as a school operated by school district 271 or a private institution for learning, which teaches children, and shall not include daycare centers.

f. A trash and garbage disposal container capable of holding all trash and garbage generated by the operation of the Mobile Food Cart must be attached to the cart. The container shall be emptied periodically as necessary in order to ensure, at all times, public access to and use of the container. Each Vendor shall at all times keep the Mobile Food Cart and the immediate area (within 10 feet) free of litter, grease, and other debris which may result from its operation.

g. Facilities for hand-washing/sanitization must be available to workers.

h. The Vendor must schedule a safety inspection by the Coeur d’Alene Fire Department and meet the criteria on the Department’s mobile vendor safety sheet.

If tents will be used, the Vendor must obtain a tent permit from the Fire Department.

i. The Mobile Food Cart shall contain at least one functional fire extinguisher approved by the Fire Department.

j. The Mobile Food Cart shall not use City utilities or property including, but not limited to, picnic tables, benches, electrical power, garbage or trash containers, without written permission and payment of appropriate fees.

k. By applying for a permit, a Vendor agree in writing to hold the City harmless from any injury or damage resulting from the operation of the Mobile Food Cart, and shall carry workers' compensation insurance as required under Idaho law.

l. A Mobile Cart or like devices shall not exceed four feet by eight feet by four feet (4' x 8' x 4') (width/length/height). If an umbrella or canopy is used, in no event shall the overall height exceed eight feet (8').

8. Mobile Food Concessions may operate on City streets, sidewalks, rights-of-way, and waterways with a permit under the following conditions and subject to the following standards:

a. A Mobile Food Concession may operate at approved locations only from sunrise until sunset of each day.

b. The Vendor must possess a valid Idaho seller's permit.

c. The Vendor must comply with Chapter 15.24, Coeur d'Alene Municipal Code, the "Sign Code."

d. A Mobile Food Concession shall not operate within one thousand two hundred feet (1,200') of a school, during the dates that school is in session. For purposes of this section, a "school" is defined as a school operated by school district 271 or a private institution for learning, which teaches children, and shall not include daycare centers.

e. A trash and garbage disposal container capable of holding all trash and garbage generated by the operation of the Mobile Food Concession must be attached to the cart. The container shall be emptied periodically as necessary in order to ensure, at all times, public access to and use of the container. Each Vendor shall at all times keep the Mobile Food Concession and the immediate area (within 10 feet) free of litter, grease, and other debris which may result from its operation.

f. Facilities for hand-washing/sanitization must be available to workers.

- g. The Vendor must schedule a safety inspection by the Coeur d'Alene Fire Department and meet the criteria on the Department's mobile vendor safety sheet. If tents will be used, the Vendor must obtain a tent permit from the Fire Department.
 - h. A Mobile Food Concession shall contain at least one functional fire extinguisher approved by the Fire Department.
 - i. A Mobile Food Concession shall not use City utilities or property including, but not limited to, picnic tables, benches, electrical power, garbage or trash containers, without written permission and payment of appropriate fees.
 - j. By applying for a permit, a Vendor agree in writing to hold the City harmless from any injury or damage resulting from the operation of the Mobile Food Concession, and shall carry workers' compensation insurance as required under Idaho law.
 - k. A Mobile Food Concession, including those operated on or from watercraft, shall not be allowed to operate on the waterways within the city limits of Coeur d'Alene.
9. A Concession that moves about the City on a continuous basis, utilizing City streets or rights-of-way, may operate on City streets, sidewalks, rights-of-way, and waterways with a permit under the following conditions and subject to the following standards:
- a. The Vendor must possess a valid Idaho seller's permit.
 - b. The Vendor must comply with Chapter 15.24, Coeur d'Alene Municipal Code, the "Sign Code."
 - c. The Vendor may not operate within one thousand two hundred feet (1,200') of a school, during the dates that school is in session. For purposes of this section, a "school" is defined as a school operated by school district 271 or a private institution for learning, which teaches children, but shall not include daycare centers.
 - d. The Concession must have attached thereto or to a part thereof a trash and garbage disposal container capable of holding all trash and garbage generated by the operation of Concession. The container shall be emptied periodically as necessary in order to ensure, at all times, public access to and use of the container. Each Vendor shall at all times keep their cart and the immediate area (within 10 feet) free of litter, grease, and other debris which result from their operation.
 - e. Facilities for hand-washing must be available to workers.

- f. The Vendor must schedule a safety inspection by the Coeur d'Alene Fire Department and meet the criteria on the Department's mobile vendor safety sheet.
- g. The Concession shall contain at least one functional fire extinguisher approved by the Fire Department.
- h. By applying for a permit, the Vendor agrees to hold the City harmless from any injury or damage resulting from the operation of the Concession.
- i. The Concession may not remain in one place for more than ten (10) minutes.

B. Public Parking and Boat Launch Areas.

- 1. The City, by permit or contract, may authorize Mobile Food Concessions or Mobile Food Carts to park in spaces designated by the City in the City Hall, Independence Point, or McEuen Parking facilities.
- 2. Mobile Food Concessions and Mobile Food Carts may conduct business in all public parking facilities except the Museum Parking Facility, Independence Point Parking Facility, and City Park parking facilities when there is a specific event at or adjoining the proposed location, and the Mobile Food Concession or Mobile Food Cart is directly related to the event and meets the approval of the event sponsor and Parks Director. A Mobile Food Concession or Mobile Food Cart authorized by this section must meet all of the following requirements:
 - a. A trash and garbage disposal container capable of holding all trash and garbage generated by the operation of the Mobile Food Concession or Mobile Food Cart must be provided. The container shall be emptied periodically as necessary in order to ensure, at all times, public access to and use of the container. Each Vendor shall at all times keep the Mobile Food Concession or Mobile Food Cart and the immediate area (within 10 feet) free of litter, grease, and other debris which may result from its operation.
 - b. A Mobile Food Concession or Mobile Food Cart may operate at approved locations only from sunrise until sunset of each day.
 - c. A Mobile Food Concession or Mobile Food Cart shall not use City utilities or property including, but not limited to, picnic tables, benches, electrical power, garbage or trash containers, without written permission and payment of appropriate fees.
 - d. A Mobile Food Concession or Mobile Food Cart shall contain at least one functional fire extinguisher approved by the Fire Department.

- e. By applying for a permit, the Vendor agrees to hold the City harmless from any injury or damage resulting from the operation of the Mobile Food Concession or Mobile Food Cart.

C. Beaches, Natural Areas, Parks, Playgrounds, and Play Fields.

1. Commercial activities, or commercial enterprises with or without items for sale, are prohibited on City-owned beaches, natural areas, parks, playgrounds, or play fields, unless otherwise specifically authorized in this Code or by contact with the City.
2. The City Council, upon recommendation of the Parks and Recreation Department, may authorize Concessions at designated locations in any City-owned beach, natural area, park, playground, or play field by Resolution. The items to be sold, size and location of concession stand, hours of operation, duration of use of the concession, and all other rules regulating the operation of the concession stand will be included in a rental or use agreement between the City and the Vendor operating the concession.

5.75.060: NON-MOBILE FOOD CONCESSIONS ON PUBLIC PROPERTY; STANDARDS:

A. The City Council at its discretion or, in the event of extenuating circumstances, the Mayor or his designee, may grant a permit and/or enter into a contract for the operation of a Non-Mobile Food Concession on a City street, sidewalk, right-of-way, beach, natural area, park, playground, or play field when, in the opinion of the City Council or the Mayor or his designee, the operation of such stand is deemed to be in the best interest of the public and in compliance with the following:

1. A Non-Mobile Food Concession may operate at an approved location only during the hours specified in the permit.
2. The Vendor must obtain a valid public health permit prior to issuance of the City permit. Application for such City permit shall be made on a form supplied by the City Clerk ten (10) days in advance of the desired date(s) of operation. The City Clerk shall charge a fee established by Resolution of the City Council for each Non-Mobile Food Concession permit.
3. A Non-Mobile Food Concession must provide a trash and garbage disposal container capable of holding all trash and garbage generated by the operation of the Non-Mobile Food Concession. The container shall be emptied periodically as necessary in order to ensure, at all times, public access to and use of the container. Each Vendor shall at all times keep their cart and the immediate area (within 10 feet) free of litter, grease, and other debris which result from their operation.
4. A Non-Mobile Food Concession shall not use City utilities or property including, but not limited to, picnic tables, benches, electrical power, garbage or trash containers, without written permission and payment of appropriate fees.

5. A Non-Mobile Food Concession shall contain at least one functional fire extinguisher approved by the Fire Department.

6. By applying for a permit, the Vendor agrees to hold the City harmless from any injury or damage resulting from the operation of the Non-Mobile Food Concession.

5.75.070: FEES:

A. The fees for a Concession shall be set by Resolution of the City Council.

B. The required fee shall be paid at the time the application is submitted and is non-refundable.

C. An annual inspection fee, in an amount to be set by Resolution of the City Council, shall be assessed each January 1 for every permit holder.

5.75.080: VIOLATIONS; PENALTIES:

A. In addition to conduct contrary to specific provisions of this chapter, the following shall be considered a violation:

1. Operation after revocation of any required Panhandle Health District approval and/or permit; and

2. Knowingly, intentionally, or recklessly providing false information on a permit application.

B. **Penalty.**

1. An applicant commits a violation this Article if he/she, or anyone under his/her supervision or control, knowingly and willfully violates any provision of this Article.

2. For a first offense, the applicant shall be subject to a civil penalty in an amount established by Resolution of the City Council.

3. For any subsequent offense, the applicant shall be subject to a misdemeanor, pursuant to section 1.28.010 of the City Code.

4. In addition to any other remedy or procedure authorized by law, violation or failure to comply with any of the standards or conditions for an outdoor eating facility permit or a sidewalk encroachment permit may result in revocation of the permit, and such revocation procedure shall be as established in section 5.75.030(D) of this Chapter.