

SUMMARY OF ORDINANCE 1103

Ordinance 1103 passed July 5, 1995, is an ordinance of the City of Payette, Payette County, Idaho, which establishes criteria for mobile or temporary food service vendors within the city limits of Payette, Idaho by creating a new Chapter 15 of Title 5 of the Payette Municipal Code. The Ordinance requires that no mobile or temporary food service vendor shall dispense any food or drink within the city limits unless he is granted a concession by the City Council. The Ordinance defines terms. The Ordinance requires that applications set forth names, addresses, location of business, length of time business is to be conducted, advertising done, whether the manager or supervisor of the business has been convicted of any crime, credentials from the business authorizing the applicant to act as a representative, and such other reasonable information as the City Clerk may deem proper. The Ordinance provides for investigation of the business responsibility, the denial or approval of the application and the issuance of a license. The Ordinance requires the proprietor to receive permission from the City Council, furnish proof of public liability insurance coverage in the sum of \$500,000.00 and to pay a concession license fee of \$50.00 for each location at which the concession will be operated. The Ordinance provides that the license shall be posted conspicuously in the place of business named therein and that the concessionaire must obtain a valid public health permit. The Ordinance requires that each concession unit have adequate trash disposal containers which are emptied periodically and contain at least one functional fire extinguisher. The Ordinance prohibits any loud noises or speaking devices. The Ordinance provides for a process of appeal in regard to the denial of an application. The Ordinance provides for an expiration of licenses 90 days after the date of issuance. The Ordinance provides for a penalty for the violation of any of the provisions in the ordinance and contains a severance clause. The Ordinance contains a non-liability clause. The Ordinance provides for seizure of the license in the event of any violation and the right to a revocation hearing. The Ordinance contains a repealer clause, a severability clause and an effective date clause and a paragraph allowing publication by summary.

I, Bert L. Osborn, legal advisor for the City of Payette, state the foregoing summary is true and complete and provides adequate notice to the public. The full text of the ordinance which is summarized by this publication is on file with the City Clerk and shall be made available to any citizen upon personal request.


Bert L. Osborn

ORDINANCE NO. 1103

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, ESTABLISHING CRITERIA FOR MOBILE OR TEMPORARY FOOD SERVICE VENDORS WITHIN THE CITY LIMITS OF PAYETTE, IDAHO; CREATING A PENALTY; SETTING AN EFFECTIVE DATE; ESTABLISHING SEVERABILITY; ALLOWING FOR PUBLICATION BY SUMMARY; ESTABLISHING A REPEALER.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO;

Section 1. There is hereby created a new Chapter 15 of Title 5 of the Payette Municipal Code, which Chapter shall be designated 5.15, and which shall include Sections 5.15.010 through 5.15.160 and which Sections shall read as follows:

5.15.010. Granting of concession. No mobile or temporary food service vendor shall dispense any food or any drink within the city limits unless he shall be granted a concession therefor by the City Council.

5.15.020. Definitions. For the purpose of this chapter a mobile or temporary food service vendor is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering food or drink within said city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, or boat, public room, lodging house, apartment, shop, or any place within the city, for the exhibition and sale of such wares, either privately or publicly. The 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 any local merchant, or by conducting such transient business in connection with, as a part of, or in the name of any local merchant.

5.15.030. Application. Applicants for license under this chapter, whether signed by the applicant, if an individual, by all partners if a partnership, and by the president if a corporation, with the City Clerk, showing:

(a) The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed it will be carried on in the City of Payette; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or

persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated;

(b) The place or places in the City of Payette where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;

(c) The place or places, other than the permanent place of business of the applicant where applicant within the six months next preceding the date of said application conducted a mobile or temporary food service business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

(d) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the City Clerk, copies of all said advertising whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto;

(e) Whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, felony or misdemeanor, or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor;

(f) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative; and

(g) Such other reasonable information as to the identity or character of the person or persons having the management or supervision of applicant's business or the method or plan of doing such business as the City Clerk may deem proper to fulfill the purpose of this chapter in the protection of the public good.

5.15.040. Investigation and Issuance. Upon receipt of such application, the City Clerk shall cause such investigation of such person's or persons' business responsibility to be made as he deems necessary for the protection of the public good. If, as a result of such investigation, the applicant's business responsibility is found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the City Clerk shall so certify in writing, and a license shall be issued by the City Clerk. The City Clerk shall keep a full record in his office of all licenses issued. Such license shall contain the

number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of said license, the place where said business may be carried on under said license, and the name or names of the person or persons authorized to carry on the same.

5.15.050. Food and drink concessions. The proprietor of any mobile or temporary food service concession stand or operation shall be required to receive permission from the City Council prior to receiving a concession license from the Clerk's office, furnish proof of public liability insurance coverage in the minimum amount of five hundred thousand dollars (\$500,000.00) combined single limit, and to pay a concession license fee of fifty dollars (\$50.00) for each location at which the concession will be operated. Additional requirements may be imposed by the Council and shall be subscribed on the permit.

5.15.060. Exhibition of License. The license issued under this chapter shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

5.15.070. Public Health Permit. The concessionaire must obtain a valid public health permit for the mobile food concession to be used prior to issuance of the City permit. All City permits shall be issued on a monthly calendar basis. Application for such City permit shall be made on a form supplied by the City Clerk twenty (20) days in advance of the issuance of such City permit.

5.15.080. Trash Disposal. Each mobile food concession unit 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 the concession. The container shall be emptied periodically as necessary in order to insure, at all times, public access and use of the container. Each concessionaire or their employees 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.

5.15.090. Fire Extinguisher. All mobile food concessions shall contain at least one functional fire extinguisher approved by the Department of Public Safety.

5.15.100. Loud Noises or Speaking Devices. No licensee under this chapter, nor anyone in his behalf shall shout, make any outcry, blow a horn, ring a bell or use any other sound device, including any loud speaking radio or amplifying system

upon any of the streets, alleys, parks or other public places in the said city or upon any private premises in the said city where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys or parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposed to sell.

5.15.110. Appeal. Any person aggrieved by the decision of the City Clerk in regard to the denial of an application for license as provided for in Section 5.15.040 of this chapter or in connection with the revocation of a license as provided for in Section 5.15.170 of this chapter, shall have the right to appeal to the Council of the City of Payette. Such appeal shall be taken by filing with the Council within fourteen (14) days after notice of the decision by the City Clerk has been mailed to such person's last known address, a written statement setting forth the grounds for the appeal. The Council shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in Section 5.15.170 of this chapter for notice of hearing on revocation. The order of this Council on such appeal shall be final.

5.15.120. Expiration of License. All licenses issued under the provisions of this chapter shall expire ninety (90) days after the date of issuance thereof unless a prior date is fixed therein.

5.15.130. Penalty. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

5.15.140. Severance Clause. If any section, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not effect the validity of the remaining sections, sentences, clauses or phrases of this chapter, or the chapter as an entirety, it being the legislative intent that this chapter shall stand notwithstanding the invalidity of such section, sentence, clause or phrase.

5.15.150. Non-Liability. By accepting a fee and issuing a license, the City does not assume any liability for any actions or any conduct engaged in by the licensee. The City, nor any of its employees, shall endorse any products or services sold by any licensees and the City, employees of the City and any licensees shall not represent to any person that the City has any interest in any business carried on by the licensee.

5.15.160. Violation, License, Seizure. In the event that the licensee shall violate any of the terms or conditions of the license, or in the event that any product offered by the licensee is a stolen item, or in the event that the licensee violates any

Municipal ordinance in reference to the business, the Department of Public Safety shall be authorized to seize and confiscate the license and hold the same pending a hearing before the City Council. No business shall be conducted without a license. If the licensee requests a hearing, a revocation hearing shall be held by the City Council. Fourteen (14) days notice shall be given by mailing to the licensee at the address provided by the licensee on the application or any amendments thereto. The notice shall set out the time and place of hearing, the reasons for the revocation and that the licensee may be represented by counsel.

Section 2. Any ordinances which are in conflict with this ordinance are hereby repealed, but only insofar as the conflict exists.

Section 3. If any portion of this ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the ordinance shall constitute ordinance number 1103.

Section 4. This ordinance may be published by summary in accordance with the statutes of the state of Idaho.

Section 5. This ordinance shall be in full force and effect immediately upon passage and publication as required by law.

Passed and approved by the Mayor and City Council this 5th day of July, 1995.

CITY OF PAYETTE

By James E. McQuay
Mayor

ATTEST:

John P. Frank
City Clerk