

ORDINANCE 751-21

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AMENDING CHAPTER 8, BUSINESS REGULATIONS OF THE TOWN CODE.

WHEREAS, Arizona Revised Statutes § 9-802 provides a procedure whereby a municipality may enact the provisions of a code or public record by reference, without setting forth such provisions, providing that the adopting ordinance is published in full; and

WHEREAS, the Town Council has determined that it is in the best interest of the residents of Queen Creek to make certain changes to the Town Code Chapter 8, as further set forth in Exhibit "A", which is attached hereto and incorporated herein by reference.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AS FOLLOWS:

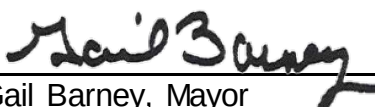
Section 1. Chapter 8, Business Regulations of the Queen Creek Town Code is amended as set forth in Exhibit "A,"

Section 2. If any section, subsection, clause, phrase or portion of this ordinance or any part of these amendments to Chapter 8, Business Regulations, of the Town Code, is for any reason held invalid or unconstitutional by the decision of any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

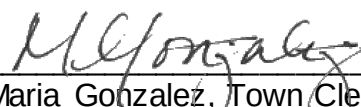
Section 3. At least one paper copy and one electronic copy of this ordinance and exhibits are to be filed in the office of the Town Clerk.

PASSED AND ADOPTED BY the Mayor and Common Council of the Town of Queen Creek, Arizona, this 7th day of April 2021.

FOR THE TOWN OF QUEEN CREEK:


Gail Barney, Mayor

ATTESTED TO:


Maria Gonzalez, Town Clerk

REVIEWED BY:


[John Kross \(Apr 8, 2021 10:45 PDT\)](#)
John Kross, ICMA-CM
Town Manager

APPROVED AS TO FORM:

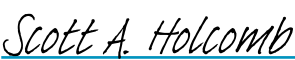

[Scott A. Holcomb \(Apr 12, 2021 16:55 PDT\)](#)
Dickinson Wright PLLC
Attorneys for the Town

Exhibit A:

Section 8-1-10

Initial application for retail merchants, restaurants, bars, contractors, and rental of real and personal property with a fixed place of business within the town limits ~~and~~ persons engaging in the sale or rental of real estate and mobile food vendors - \$60

Section 8-2-2 Definitions

B. "Peddler" means any person, individual or corporate, or firm, whether a resident of the town or not, who travels, or whose agents travel, by foot, wagon, automobile or any other type of conveyance, from place to place, from house to house, from street to street or business to business, carrying, conveying or transporting goods, wares, merchandise, edible foodstuffs or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same from a wagon, automotive vehicle, railroad car or other conveyance, and further provided, that persons or firms who solicit orders and as a separate transaction make delivery to purchasers as a part of the scheme of design to evade the provisions herein contained shall be deemed a peddler subject to the provisions herein contained. The word "peddler" shall include the words "hawker" and "huckster". Mobile food vendors as defined in Section 8-1-13 are excluded from this definition.

C. "Transient merchant", "itinerant merchant" or "itinerant vendor" means any person, corporate or individual, or firm, whether owner or otherwise, whether a resident of the town or not, who engages, or whose agents engage, in a temporary business of selling and delivering goods, wares, merchandise, edible foodstuffs or provisions, within the town, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public room in a hotel, lodging house, apartment, shop, or any street, alley or other place within the town for the exhibition and sale of such goods, wares, merchandise and edible foodstuffs, either privately or at public auction. The person or firm so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any such local dealer, trader, merchant or auctioneer. Mobile food vendors as defined in Section 8-1-13 are excluded from this definition.

Section 8-1-13. - MOBILE FOOD VENDING

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Catering shall be defined as a transaction where the exchange of money or contracted agreement for single payment takes place and the supply or delivery of food is the sole purpose of the activity at the establishment.

Food vending vehicle shall mean any vehicle, as that term is defined in the Arizona Revised Statutes, which is equipped or primarily used for retail sales of fruits, vegetables, or produce, and/or prepared, pre-packaged, or unprepared, unpackaged food or beverage of any kind on any public or private street, alley, highway, or property within the town. The inventory of these vehicles is not necessarily limited to edible items and may include non-food sundries. A human powered food vending vehicle is not a food vending vehicle.

Goods or merchandise includes items and products of every kind and description, including all foods, produce and beverage items.

Human powered food vending vehicles shall mean any device moved by human power including, but not necessarily limited to, any pushcart, wagon, bicycle, tricycle, grocery cart, or other wheeled container or conveyance.

Ice cream truck shall mean every motor vehicle, as that term is defined in the Arizona Revised Statutes in which is equipped or primarily used for the retail sales of ice cream on any public street, alley, or highway, or private street, or alley within the town.

Mobile food vendor shall mean any person, as defined in this chapter, who:

- (1) Owns, controls, manages, and/or leases a food vending vehicle, ice cream truck, or human powered food vending vehicle; or
- (2) Contracts with a person(s) to drive, operate, prepare foods, and/or vend from a food vending vehicle, ice cream truck, or human powered food vending vehicle.

Mobile Food Unit shall be defined as a food establishment designed to be readily movable from which food is composed, compounded, processed, or prepared and from which food is vended, sold, or given away. This definition shall include but not be limited to food establishments in operation from a vehicle, enclosed trailer, cart, or pushcart.

Operator as used in this chapter shall mean any person who drives, operates, prepares foods, and/or vends from a food vending vehicle, ice cream truck, or human powered food vending vehicle.

Licensing.

- A. Required. It is unlawful for any mobile food vendor to conduct business without first obtaining and maintaining in effect a general business license pursuant to this chapter. A separate license is required for each food vending vehicle, ice cream truck, or human powered food vending vehicle.
- B. Application. In addition to the application requirements set forth in Article 8-1, applicants for a license shall file with the Town Clerk Department the following information:
 1. If the applicant intends to operate on town property or in the right-of-way, a statement as to whether the applicant has been convicted of any felony and the nature of the offense.
 2. The location(s) from which the applicant intends to conduct business and a permanent address to which notifications may be sent.
 3. In addition to the other requirements of this article, a mobile food vendor who conducts business from a vehicle shall provide proof of vehicle liability insurance which shall be maintained during the term of the license and shall be in at least the minimum amount required by law.
 4. If operating in an event sponsored by the Town or operates on public property, including rights-of-way or property owned by the Town, the applicant shall obtain insurance naming the Town as an additional insured in amounts as required by the Town and in accordance with the requirements of A.R.S. Title 9, Chapter 4, Article 7.2.
 - a. The insurance company issuing the policy shall be authorized to issue commercial liability policies in Arizona by the Arizona Department of Insurance.
 - b. The policy shall designate by manufacturer's serial or identification number all mobile food units for which coverage is granted.
 - c. The policy shall insure the person named in the policy and any other person using the mobile food vendor with the express or implied permission of the named insured against any liability arising out of the ownership, maintenance or use of the mobile food vendor in Arizona.
 5. Shall provide evidence of passing a fire inspection by this or another city, town or fire district in this state within the preceding twelve (12) months.
 6. Shall confirm conformance with all Town requirements related to mobile food vending.
 7. Shall provide written permission from the property owner approving the operation of the mobile food unit.
 8. A copy of a valid Maricopa County or Pinal County health code permit.
- C. Mobile food vendors operating under a special event permit or conditional use permit or are catering a one-time private event on residential zoned property are not required to receive a business license

Location and Operation.

- A. Mobile Food Vendor. A mobile food vendor shall operate a mobile food unit only in zoning districts in accordance with Table 4.6-1 of the Zoning Ordinance and subject to the following limitations and conditions:
1. A mobile food vendor shall not operate in an area zoned for residential use or within two hundred fifty (250) feet of an area zoned for residential use, except for an ice cream truck operating by moving quickly and readily from place to place stopping only to complete a point of sale transaction for no longer than fifteen (15) minutes per stop, catering activities, or approved block parties or special events.
 2. Notwithstanding the permission of a person owning or having lawful control of private real property, a mobile food unit shall not remain in one location on private property for longer than ninety-six (96) consecutive hours, unless the Town grants permission for a permitted event greater than four (4) days. "One location" within this subsection means a location within a parcel of land and includes movements from different parked positions within the same parcel.
 3. A mobile food unit shall only operate in a legal parking space.
 4. Human powered push carts or other mobile food units not defined as a vehicle in A.R.S. 28-101, may not operate in the public right of way.
 5. A mobile food unit, including any semi-permanent structure used or associated with the mobile food unit, may use no more than two (2) legal parking spaces, unless the mobile food vendor has a separate agreement with the Town to use additional legal parking spaces.
 6. No mobile food unit shall operate with the serving window facing street traffic.
 7. A mobile food unit shall abide by all parking regulations, including posted time limits. If there are no other time restrictions on the use of a legal parking space, a mobile food unit shall not occupy a legal on-street or public parking space for more than six (6) hours in a twenty-four (24) hour period. "Occupy" within this subsection means within one hundred (100) feet of the place in which the mobile food unit was initially parked.
 8. A mobile food unit shall not occupy a legal parking space with insufficient parking capacity as prescribed by the Town Zoning Ordinance, and includes occupying a legal parking space that reduces the number of available parking spaces surrounding the area which is required for the principal use or uses of the property associated with the parking spaces as set forth in A.R.S. Title 9, Chapter 4, Article 7.2.
 9. A mobile food vendor shall comply with the Section 7.5 Temporary Signs pursuant to the Town Zoning Ordinance. Vehicle signage is permitted without permit and without review.
 10. A mobile food unit shall provide a minimum of one fifteen (15) gallon trash receptacle within fifteen (15) feet of each individual mobile food unit for customers and employees; maintain an area around the mobile unit clear of litter, garbage, rubble and debris; and transport the trash from the area of operation into an authorized waste disposal location.
 11. Noise levels from mobile food units shall not exceed the Town's noise ordinance standards pursuant to Article 9-1-6 of the Town Code.
 12. A mobile food unit shall have adequate lighting to ensure customer safety in the vending area. Lighting shall be directed downwards and away from rights-of-way and adjacent properties.
 13. The site shall be restored to its original condition after each use. Permanent alterations to the site are prohibited.
 14. Food vending vehicles in operation without a town fire department approved fire suppression system must maintain a ten-foot separation between mobile food vending vehicles (bumper to bumper, side to side), all structures, and property lines.

B. It is unlawful for any licensee under this article to conduct business:

1. On town property without a written agreement or permit.
2. Exception: Operators of ice cream trucks or human powered food vending vehicles may conduct business in the public right-of-way for no more than ten minutes at a time in any one location.
3. Within a public park unless the licensee has obtained a permit from the parks and recreation director or designee.
4. In any congested area where the business might impede or inconvenience the public and, for the purposes of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
5. Without written permission of the property owner for use of the property, which written permission shall be carried when conducting such business.
6. Without having first obtained all required county or town permits.

751-21 TA Ch.8 Business Regulations

Final Audit Report

2021-04-12

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"751-21 TA Ch.8 Business Regulations" History

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