

**ORDINANCE NO. 2014-10A
CITY OF KUNA, IDAHO**

**AN ORDINANCE OF THE CITY OF KUNA, IDAHO RE-CODIFYING
ORDINANCE NO. 2014-10 TO AMEND IT FROM TITLE 3, CHAPTER 3 TO
TITLE 3, CHAPTER 9, TO AMEND THE PENALTY FROM A MISDEMEANOR
TO AN INFRACTION; AND PROVIDING AN EFFECTIVE DATE.**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF KUNA, ADA COUNTY, IDAHO, as follows:

Ordinance Section 1: Title 3, Chapter 9 is hereby amended as follows:

**CHAPTER 9
TEMPORARY MOBILE VENDOR'S PERMIT**

3-9-1: DEFINITIONS:

MOBILE VENDING UNIT: A motorized or non-motorized, cart, trailer or vehicle that has at least two (2) functioning wheels, or a table, platform or other temporary fixture that is used to display items for sale, and is operated by a Vendor.

SPECIAL EVENT: An event that has received a Special Event Permit from the City of Kuna as provided for in Kuna City Code Title 3, Chapter 8.

VENDING: The selling, displaying, or offering for sale any item of tangible personal property, food or other thing of value by a Vendor from a Mobile Vending Unit within the city limits from an approved location where the Mobile Vending Unit is stationary and fixed for the purpose of Vending.

TEMPORARY: A term of not less than thirty (30) days or more than ninety (90) days, as determined by the Vendor and the City Clerk.

VENDOR: Any person, including an employee or agent of a group of individuals, partnership, or corporation, who sells food, beverages, goods, or merchandise from a Mobile Vending Unit.

3-9-2: LICENSES REQUIRED:

A. All Vendors operating within the city limits are required to obtain a Vendor's Permit from the City Clerk's Office prior to conducting any business or employing another to conduct business in compliance with the provisions of this Chapter.

B. All Vendors must meet all applicable city, state, including Central District Health Department Regulations and Requirements, and federal law and licensing requirements to be issued and continually maintain a City issued license.

C. Any Mobile Vending Unit that is moved from one (1) location to one (1) or more locations within a twenty-four (24) hour period where the Vendor continues to sell items, for example, an ice cream truck selling within subdivisions, shall be required to obtain a Solicitor's License from the City.

3-9-3: LICENSE EXCEPTIONS:

A. The provisions of this Chapter shall not apply to:

1. Persons engaged in the delivery of pre-purchased goods.
Persons acting on behalf of organizations that are tax exempt under federal laws or regulations.
3. Persons acting on behalf of local, state or national civic organizations.
4. Persons acting pursuant to a court order.
5. Persons acting on behalf of organizations devoted to youth development, such as, but not limited to, Boy Scouts, Girl Scouts and schools.
6. Persons acting on behalf of political, religious or other organizations seeking donations from members.
7. Garage or yard sales, provided that there are no more than two (2) sales held annually from a given location.
8. Farmers' markets.
9. Lemonade stands or similar activities conducted by persons under the age of eighteen (18) years.

3-9-4: APPLICATION FOR LICENSE:

A. Applicants for a license under this Chapter must file with the City Clerk an application furnished by the City Clerk, which states:

1. Name of the applicant, and name of the business if any.
2. Address.
3. A brief description of the nature of the business and the food or goods to be sold.
4. The proposed time and length of operation and the location where the Mobile Vending Unit will be operating, together with a vehicle license plate number or other means of identification.
5. When the applicant proposes to sell any prepared food product for human consumption, a certification by the Central Health District shall be required for the duration of a license.

6. No license issued hereunder shall be transferable.
7. The City shall approve or deny the application within five (5) days of receipt of the completed application and application fee. Any denial may be appealed pursuant to the provisions of Chapter 9 Section 13 of this Title. If the City does not deny the application within the five (5) days of submission of a completed application with the fee paid, the application shall be deemed approved.
8. Once a license is issued, the applicant has an affirmative duty to maintain all applicable licenses and certifications and to notify the City Clerk in writing of any material change in the information provided by the Applicant in the original application.
9. A copy of the Central Health District certificate shall be provided prior to issuance of the license. Said certificate shall be maintained and displayed throughout the duration of a license when applicant proposes to sell any prepared food for human consumption.

3-9-5: LICENSE FEE:

The Vendor non-refundable license fee, based upon the term of the permit, shall be in an amount established by the Kuna City Council and listed on the most current City Clerk License Fee Schedule, and it shall be paid in advance.

3-9-6: ISSUANCE AND EXHIBITION OF LICENSE:

- A. Approval. The City Clerk shall notify the applicant when the license request is approved and shall issue a license.
- B. The license shall contain:
 1. Name.
 2. Address.
 3. Type of License.
 4. Type of goods to be sold thereunder.
 5. Fee paid.
 6. Issuance date.
 7. Expiration date.
- C. The license issued shall be exhibited in a conspicuous place upon the Mobile Vending Unit.

3-9-7: MOBILE VENDOR GENERAL RESTRICTIONS:

A. No Vendor shall have any exclusive right to any location on public property; each location shall be subject to first in time, first in right.

B. Vendors shall be allowed to engage in their licensed business only between eight (8) a.m. and three (3) a.m. All Mobile Vending Units must be removed from public property during non-vending hours.

C. Mobile Vending Units that are located on City public property may be required to move to another location as the City determines based upon the need to use the public property for another event.

D. A Mobile Vending Unit shall not be located:

1. Where clear pedestrian passage on the public sidewalk is less than five feet wide; or

2. Within a midblock crosswalk area; or

3. Within a City owned parking lot; or

4. On the portion of a public sidewalk crossed by a public or private driveway or within ten feet of either side of the driveway; or

5. Within any street corner area.

6. For purposes of this section:

a. "Midblock crosswalk area" means the sidewalk area which falls between the two lines fifteen feet beyond each side of a marked midblock crosswalk area (identified by the crosswalk lines delineated on the street pavement) and perpendicular to the curb.

b. "Street Corner Area" means the sidewalk area at the intersection of two streets, circumscribed by curbs, the property lines abutting the sidewalk area, and the line including the point along the curb of the street either fifteen feet from the outside line of a corner crosswalk or where there is no marked crosswalk, twenty-five feet from the curb line on the mid-point of the intersecting streets.

7. Within five (5) feet from a perpendicular line drawn to the curb from either side of a doorway;

8. In a manner in which the movement or visibility of vehicles using the street or other public right of- way is obstructed.

E. Mobile Vending Units shall not be locked or chained to a parking meter, tree, street light or other street furniture.

F. Utility service connections are not permitted. Electrical lines are not allowed overhead or lying in the pedestrian portion of the sidewalk. City street light facilities shall not be used in any way to supply electrical service to a Vendor site.

G. Vendors shall keep the area of operation free of debris. Vendors selling food or beverages must provide trash receptacles and waste removal adjacent to or as a part of their operations. All spilled food, beverages, grease, or other trash or debris accumulating within twenty (20) feet of any Mobile Vending Unit shall be cleaned and collected by the Vendor and deposited in the Vendor's trash receptacle. The Vendor is prohibited from depositing its waste, ice, and any grey or waste water into sidewalk waste receptacles, privately owned dumpster, city planters, gutters or the street drainage system.

H. Mobile Vending Units shall be maintained in such a manner that prevents the spilling or splattering of grease, water, food, or trash on any public right-of-way where the cart, trailer, or vehicle is located. The operator shall be responsible for the cleaning and repair of any public right-of-way soiled, stained, or damaged by the placement and operation of their mobile vending operations.

I. Vendors shall be responsible for the cleaning and repair of their area that is soiled, stained, or damaged by the placement and operation of their mobile vending operations. Failure to pay for any cleaning or repair shall be grounds for revocation of their Vendor's license and cause not to issue a license in the future.

J. Vendors shall only sell items that may be lawfully sold. Vendors are prohibited from selling drug paraphernalia, as defined by Idaho Code, firearms, pornographic materials or livestock.

3-9-8: MOBILE VENDING UNIT STANDARDS:

A. Mobile Vending Units must be designed and built meeting normal industry standards and used in a safe manner.

B. Generators shall be in good working order and have an approved muffler so as to not create excessively loud noise or smoke.

C. A BBQ grill shall be enclosed and permanently built into the structure of the Mobile Vending Unit.

D. A five-pound "K" class hand-held fire extinguisher is required if a heating or cooking appliance is used.

E. Unsecured menu boards or sidewalk signs are prohibited.

3-9-9: PARKING RESTRICTIONS.

Vendor units shall be parked in a legal manner. (Vending operations shall be conducted only in approved locations.)

3-9-10: DISPOSAL OF GREY WATER:

All wastewater "grey water" shall be disposed of at the dump station at the city park and all applicable fees shall be paid. No grey water shall be disposed of in any unapproved location such as the curb, gutter or anywhere else on public property.

3-9-11: SPECIAL EVENT VENDOR:

A. Vendors operating during a Special Event where the organizers of the Special Event have received a Special Event Permit from the City, are subject to the following additional restrictions:

1. All Vendors conducting business within seven hundred fifty (750) feet from the perimeter of a Special Event shall either: 1) obtain a Special Event Vendor's Permit from the organizer of the Special Event; or 2) pay the City a fee of a factor of one and one-half (1.5) the Special Event Vendor's Permit fee.

Special Event Vendors may operate during the Special Event hours as approved by the City in the Special Event- Event Plan.

3. Special Event Vendors may keep their Mobile Vending Units in the approved location for the duration of the approved Special Event.

3-9-12: EXPIRATION OF LICENSE:

All licenses issued under the provisions of this Chapter shall expire on the date specified in the license.

3-9-13: UNLAWFUL CONDUCT:

A. No Vendor hereunder shall:

1. Fail to comply with any of the requirements and restrictions set forth in this Chapter.

2. Misrepresent the purpose of, or affiliation of those engaged in the vending or make any false statement on the application.

3-9-14: APPEAL FROM DENIAL OF LICENSE:

A. Any person aggrieved by any action of the City Clerk or City Council taken pursuant to this chapter, shall have the right to appeal the action or decision to the City Council within fourteen (14) days after the notice of the action has been mailed to the person(s), corporation(s) or organization(s) addressed as shown on the application.

B. An appeal may be taken by filing a written statement setting forth the grounds for the appeal with the City Clerk.

C. A hearing shall be set no later than twenty (20) days from the date of receipt of the appellant's written statement, with the notice and time of the hearing to be provided in the same manner as provided herein.

3-9-15: PENALTY:

Any person violating this Chapter shall be guilty of an infraction punishable as provided in for in Idaho Code §50-302(2) and Chapter 4, Title 1 of the Kuna City Code.

Ordinance Section 2: Severability If any clause, sentence, paragraph, section, or any part of this chapter, shall be declared and adjudged to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect, invalidate, or nullify the remainder of this chapter.

Ordinance Section 3: Full Force and Effect This Ordinance shall be in full force and from and after its passage, approval and publication as required by law.

ADOPTED this 6th day of January 2015.

CITY COUNCIL OF THE CITY OF
KUNA

Ada County, Idaho

W. Greg Nelson, Mayor

ATTEST:

Brenda S. Bingham, City Clerk

Publish: