

ORDINANCE NO. 1421

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AMENDING APACHE JUNCTION CITY CODE, VOLUME I, CHAPTER 8: BUSINESS, BY REPEALING ARTICLE 8-5: MASSAGE ESTABLISHMENTS, SECTION 8-5-5, PERMITTED LOCATIONS, ARTICLE 8-8: LICENSING REQUIREMENTS FOR SPECIAL COMMUNITY AND PRIVATE EVENTS, ARTICLE 8-9: SALES WITHIN MOBILE HOME PARKS, RV PARKS AND MOBILE HOME SUBDIVISIONS, AND ARTICLE 8-10: TEMPORARY FOOD AND BEVERAGE VENDORS, ALL IN THEIR ENTIRETY, EXCEPT ARTICLE 8-8 WHICH SHALL BE AMENDED; AND ADOPTING BY REFERENCE NEW PROVISIONS FOR THE REGULATIONS NOTED ABOVE AS MORE FULLY DETAILED IN THAT CERTAIN DOCUMENT ENTITLED "2015 AMENDMENTS TO THE APACHE JUNCTION CITY CODE, VOLUME 1, CHAPTER 8: BUSINESS"; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND PROVIDING FOR PENALTIES.

WHEREAS, city staff has historically handled events administratively up to December 21, 1989, when the mayor and city council adopted Ordinance No. 713, the first events regulations under new Article 8-8 of the city code; and

WHEREAS, since that time, the need for a more comprehensive and user friendly code has been discussed by the mayor and city council, as well as staff, event sponsors and vendors; and

WHEREAS, the mayor and city council first established Article 8-9 by Ordinance No. 770 on December 20, 1990, relating to sales of goods within mobile home parks, recreational vehicle parks and mobile home subdivisions; and

WHEREAS, just like events, over time, there has been a need to amend the regulatory provisions; and

WHEREAS, the mayor and city council first established Article 8-10 by Ordinance No. 823 on January 21, 1992, initially relating to peddlers at parades and amended over time to cover temporary food and beverage vendors; and

WHEREAS, having a vibrant downtown destination complete with a new public park is a council priority; and

WHEREAS, the addition of food truck vendors at downtown events at the new park and other locations during community and civic events will enhance resident and tourist attendance; and

WHEREAS, a clarified food truck and mobile vendor regulations will improve access and participation at these events; and

WHEREAS, pursuant to A.R.S. §§ 9-801(1) and 9-802, codes which may be adopted by reference include those relating to community events, mobile home park "market days", and food truck and mobile vendors; and

WHEREAS, because there are numerous Chapter 8 provisions to be repealed and amended, combining all of the changes into one ordinance will yield the most savings to taxpayers; and

WHEREAS, A.R.S. § 9-802 permits municipalities to enact the provisions of a code or public record theretofore in existence without setting forth such provisions in full text as long as the adopting ordinance is published in full text and at least one paper copy of the code changes or public record are filed in the office of the clerk of the municipality and one electronic copy is accessible on the City's website and made available for public inspection.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

SECTION I IN GENERAL

1. That existing Apache Junction City Code, Volume I, Chapter 8: Business, Article 8-5: Massage Establishments, Section 8-5-5, Permitted Locations, Article 8-8: Licensing Requirements for Special Community and Private Events, Article 8-9: Sales Within Mobile Home Parks, RV Parks and Mobile Home Subdivisions, and Article 8-10: Temporary Food and Beverage Vendors, are hereby repealed in their entirety, except Article 8-8 which shall be amended.
2. That certain document containing the amended and new Chapter 8 code provisions relating to community events, sales within mobile home parks, recreational vehicle parks and mobile home and other subdivisions, and food truck and mobile vendors, known as the "2015 Amendments to the Apache Junction City Code, Vol. I, Chapter 8: Business", one paper copy and one electronic copy which are accessible on the City's website and filed in the office of the city clerk, which document was made a public record by Resolution No. 15-33 of the City of Apache Junction, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, pursuant to A.R.S. § 9-802.

SECTION II REPEALING ANY CONFLICTING PROVISIONS

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the codes adopted herein by reference are hereby repealed.

SECTION III PROVIDING FOR SEVERABILITY

If any section, subsection, sentence, phrase, clause or portion of this ordinance or any part of the codes or regulations adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION IV DECLARING AN EMERGENCY

The immediate operation of the provisions of this ordinance is necessary for the immediate preservation of the public peace, health or safety, and that an emergency is hereby declared to exist; and this ordinance shall be in full force and effect from and after its passage, adoption and approval by the Mayor and City Council of the City of Apache Junction.

SECTION V PROVIDING FOR PENALTIES

Any violation of the provisions adopted herein shall be punishable as a Class 1 Misdemeanor consistent with Apache Junction City Code, Chapter 1: GENERAL, Article 1-8 PENALTY.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL, OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS 3rd DAY OF NOVEMBER, 2015.

SIGNED AND ATTESTED TO THIS 3rd DAY OF NOVEMBER, 2015.




JOHN S. INSALACO
Mayor

ATTEST:


KATHLEEN CONNELLY
City Clerk

APPROVED AS TO FORM:

 11.2.15
RICHARD J. STERN
City Attorney

2015 Amendments to the Apache Junction City Code, Volume 1,
Chapter 8: Business

ARTICLE 8-5: MESSAGE ESTABLISHMENTS

§ 8-5-5 PERMITTED LOCATIONS.

(A) A properly licensed massage therapist or health care professional shall only be permitted to provide massage therapy at the following business locations:

- (1) Full service beauty salon, spa, health club, fitness center or massage establishment;
- (2) Medical establishment of a health care professional; and
- (3) In the home or business location of a client by any massage therapist or healthcare professional having an appropriate license.

(B) A massage therapist or healthcare professional or any students in conjunction with a recognized school of massage or educational institution as allowable under A.R.S. Title 32, may perform massages during community and civic events as long as they meet the requirements set forth in A.J.C.C., Vol. 1, Article 8-8 and 8-9 of this code.

ARTICLE 8-8: REQUIREMENTS FOR COMMUNITY AND CIVIC EVENTS

§ 8-8-1 PURPOSE & INTENT. This article is intended to regulate community and civic events for the benefit of its citizens and visitors which enable the city to:

- (1) Protect life, health, property and general welfare of the city;
- (2) Minimize expenditures of public funds for community and civic events;
- (3) Minimize business interruptions during events while promoting business growth and economic development;
- (4) Implement a high profile, proactive approach to local economic development through public/private partnerships;
- (5) Provide a range of community and civic events open to everyone to improve the quality of life in the city;
- (6) Facilitate the redevelopment and revitalization of the downtown and older commercial areas;
- (7) Assist the city in implementing its overall economic development goals;
- (8) Provide a consistent set of standards for community and civic events;
- (9) Compete on an equal basis with other communities for tourism and other economic development projects.

§ 8-8-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMUNITY EVENT. An activity or gathering not exceeding 4 consecutive days in any calendar year which is conducted, organized and sponsored by non-profit organizations or for-profit organizations and is open to all participants on an equal basis.

EVENT. An activity or gathering with the purpose of promoting or benefitting the city and its residents and/or the sponsoring organizations. An application will be required for any activity or gathering which meets any of the following criteria:

- (1) Use of or impact/encroachment on any city street, sidewalk, alley or other right-of-way area (which includes any indirect impact that will affect the flow of typical vehicular or pedestrian traffic) that requires more than one city department approval, or will require the approval of more than one city department for inspections, assistance or permits.
- (2) Is likely to draw a crowd to a venue not properly suited and has the potential to require special accommodations, regulations, traffic control devices or public works or safety personnel;
- (3) Presence or participation of one or more for-profit or nonprofit vendors that intend to make a sale, advertise for sale, solicit sales, offer for sale, or provides a service or offer/advertise to provide a service. This provision does not apply to vendors already in possession of a valid city license issued under this code or city tax code;
- (4) Activities such as weddings, funerals, private yard sales, car shows or charity car washes shall not be considered an event.
- (5) A programmed event of a city department shall not be considered an event, however if the event includes vendors that are not already properly licensed with the city, then a fee of \$15 per vendor shall be collected for each event. The city department sponsoring the programmed event shall be responsible for collecting this fee from each participating vendor. These fees shall be paid in total to the city no later than 8 working days following the last day of the event.

FOR-PROFIT ORGANIZATION. Any entity or corporation which has been established, maintained, or conducted for the purpose of making a profit.

NON-PROFIT ORGANIZATION. Any religious, social, fraternal or civic organization which has been designated as a 501C organization by the Internal Revenue Service and which has a valid operating license as provided for in Vol. I, Chapter 8 of the city code or the city tax code. Should questions as to form of business arise, interpretations of this section shall be based upon form indicia contained in the following:

Arizona Revised Statutes; Internal Revenue Code Rules and Regulations prescribed by the Internal Revenue Service.

CIVIC EVENT. An activity or gathering not exceeding 4 consecutive days in any calendar year which is conducted, organized and sponsored solely by the city or in conjunction with a non-profit organization, has been approved as such by the council during the annual budget process and which is open to all participants on an equal basis.

§ 8-8-3 CIVIC EVENT SPONSOR REQUIREMENTS.

- (A) A non-profit sponsor of any civic event which includes vendors shall pay a fee of \$50 per day. This fee shall be paid no later than 10 working days in advance of the first day of the event.

A penalty of \$5 per day shall be assessed for each working day the initial payment is late beginning with the working day immediately following the initial deadline. The civic event fee shall not apply to those events which do not include vendors or city events.

(B) A non-profit sponsor of any civic event shall provide the city clerk with the name, address and telephone number of the event coordinator or contact person at least 30 working days in advance of the event.

(C) The sponsor of any civic event shall obtain a completed vendor application, on a form to be provided by the city, from each participating vendor and obtain a copy of the vendor's driver's license for any vendor(s) not already properly licensed with the city. The sponsor shall provide the city with these completed forms in addition to a complete list containing name, address and telephone number of each participating vendor no later than eight (8) working days following the last day of the event.

(D) Any food truck vendor, as defined in this chapter, that is present at a civic event shall follow the regulatory process in Article 8-10 of this chapter.

§ 8-8-4 CIVIC EVENT VENDOR REQUIREMENTS.

(A) All civic event vendors who engage or attempt to engage in a sale at a civic event or who advertise or solicit services or products shall complete a civic event vendor application in order to participate in the event. The completed form shall be submitted to the event sponsor.

(B) Non-profit organizations which participate as vendors at civic events shall not be required to complete an event vendor application if their participation is limited to the distribution of literature or information relative to their organization.

(C) Massage therapists or healthcare professionals or any students in conjunction with a recognized school of massage or educational institution as allowable under A.R.S. Title 32 who wish to participate as a vendor at a civic event shall be permitted to do so as long as such service is provided by a person holding a valid city business license and who is authorized under A.R.S. Title 32 to perform massages.

(D) Any food truck vendor, as defined in this chapter, that is present at a civic event shall follow the regulatory process in Article 8-10 of this chapter.

§ 8-8-5 COMMUNITY EVENT SPONSOR REQUIREMENTS.

(A) The sponsor of any community event which includes vendors shall remit to the city a fee of \$15 per vendor for those vendors not already properly licensed for each event. The sponsor shall be responsible for collecting this fee from each participating vendor. These fees shall be paid in total to the city no later than 8 working days following the last day of the event. A penalty of \$5 per day shall be assessed for each working day that the total fee remains unpaid.

(B) The sponsor of any community event shall provide the city clerk department with the name, address and telephone number of the event coordinator or contact person at least 30 working days in advance of the event.

(C) The sponsor of any community event shall obtain a completed vendor application, on a form to be provided by the city, from each participating vendor and obtain a copy of the vendor's driver's license for any vendor(s) not already properly licensed with the city. The sponsor shall provide the city with these completed forms in addition to a complete list containing name, address and telephone number of each participating vendor no later than eight (8) working days following the last day of the event.

(D) Any food truck vendor, as defined in this chapter, that is present at a special event shall follow the regulatory process in Article 8-10 of this chapter.

§ 8-8-6 COMMUNITY EVENT VENDOR REQUIREMENTS.

(A) All community event vendors who engage or attempt to engage in a retail sale or who solicit or advertise in any form at a community event shall complete a community event vendor application in order to participate in the event. The completed form shall be submitted to the event sponsor.

(B) Non-profit organizations who participate as vendors at community events shall not be required to complete a community event vendor application if their participation is limited to the distribution of literature or information relative to their organization.

(C) Vendors who have an appropriate license shall not be required to pay an additional vendor fee provided they are engaging in an activity covered by the license.

(D) Massage therapists or healthcare professionals or any students in conjunction with a recognized school of massage or educational institution as allowable under A.R.S. Title 32 who wish to participate as a vendor at a community event shall be permitted to do so as long as such service is provided by a person holding a valid city business license and who is authorized under A.R.S. Title 32 to perform massages.

(E) Any food truck vendor, as defined in this chapter, that is present at a special event shall follow the regulatory process in Article 8-10 of this chapter.

ARTICLE 8-9: SALES WITHIN MOBILE HOME AND RECREATIONAL VEHICLE PARKS, MOBILE HOME AND RECREATIONAL VEHICLE SUBDIVISIONS AND ALL OTHER RESIDENTIAL SUBDIVISIONS

§ 8-9-1 PURPOSE & INTENT. This article is intended to regulate sales and events within Mobile Home and Recreational Vehicle Parks, Mobile Home and Recreational Vehicle Subdivisions and all other residential subdivisions for the benefit of residents and visitors and which enable the city to:

(1) Protect life, health, property and general welfare of the city;

(2) Enable residential areas, mobile home and recreational vehicle communities to host a range of events for community members whether open to the general public or not so as to improve the quality of life in the city;

(3) Provide a consistent set of standards for sales and events within Mobile Home Parks, Recreational Vehicle Parks, Mobile Home Subdivisions, Recreational Vehicle Subdivisions and all other residential subdivisions.

§ 8-9-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MARKET DAYS, COUNTRY STORE, BAZAAR DAYS AND THE LIKE. An event at a temporary location not exceeding 1 day per week conducted within a mobile home park, travel trailer park, recreation vehicle park or mobile home, recreational vehicle or residential subdivision for the purpose of providing goods and services, ancillary retail sales and activities intended for residents and non-residents.

SPONSOR. Any non-profit organization, for-profit corporation, home owners association or any other entity which is legally formed and obligates itself to organize, operate and manage a market days event.

§ 8-9-3 VIOLATION AND PENALTY.

It is unlawful for any sponsor of a market days event to permit any vendor to set up at the event without the vendor having first met all city licensing requirements. Violations of this article are punishable under A.J.C.C., Vol. I, § 1-1-11.

§ 8-9-4 MARKET DAYS SPONSOR REQUIREMENTS.

(A) The sponsor of any market day events shall apply for and obtain a transaction privilege tax license from the city clerk prior to conducting or allowing ancillary retail sales (e.g., market days, craft/art sales, fundraisers and temporary food vendors).

(B) The sponsor shall comply with required sales tax administration and collection processes and shall be responsible for the collection and remittance of city sales tax on market days sales.

(C) Any food truck vendor, as defined in this chapter, that is present at a market days event shall follow the regulatory process in Article 8-10 of this chapter.

§ 8-9-5 MARKET DAYS VENDOR REQUIREMENTS.

(A) Shall apply to vendors participating in market days if there is not a market days sponsor as set forth in section 8-9-4.

(1) All vendors who engage or attempt to engage in a sale at a market days event or who advertise or solicit services or products shall complete the city license application and pay the

required fee in accordance with this chapter and the city tax code in order to participate in the event.

(2) Non-profit organizations who participate as vendors at market days shall not be required to complete a city application if their participation is limited to the distribution of literature or information relative to their organization and they have the required city license.

(3) Any vendor who conducts business activity at a market days event shall obtain the appropriate license and pay the applicable license fee as set forth in the city tax code.

(4) Any vendor who conducts business activity at a market days event shall always be in possession of an appropriate license, and such license, or a copy thereof, shall be produced upon the request of any city official or the market days sponsor or coordinator.

(B) Any food truck vendor, as defined in this chapter, that is present at a market days event shall follow the regulatory process in Article 8-10 of this chapter.

ARTICLE 8-10: MOBILE AND TEMPORARY FOOD AND BEVERAGE VENDORS

§ 8-10-1 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOBILE FOOD VENDING VEHICLE. A licensed concession trailer or motorized vehicle suitable for use on a public highway which is equipped and primarily used for the sale of food and beverage of any kind including prepared, pre-packaged or unprepared, unpackaged food and non-food sundries specifically related to the mobile food vendor's business.

FOOD VENDING CART. Any wheeled device moved by human power.

MOBILE FOOD VENDOR. Any person or entity, as defined in this chapter, who:

- (a) owns, controls, manages, operates and/or leases a mobile food vending vehicle or food vending cart;
- (b) contracts or employs any person to drive, operate, prepare foods, and/or vend from a mobile food vending vehicle or food vending cart.

OPERATOR. Any person who prepares food and/or sells food, beverages or sundries from a mobile food vending vehicle or food vending cart or any individual that operates such a vehicle or cart.

§ 8-10-2 PERMIT.

(A) *Required.* It is unlawful for any mobile food vendor to conduct business without first obtaining and maintaining a mobile food vendor permit and all other required licenses, including

a privilege tax license, a county environmental health services permit, current food handler's card and identification cards as may be required by this chapter. If a mobile food vendor has more than one food vending vehicle or food vending cart, multiple permits shall be required. There shall be no application fee for a mobile food vendor permit.

(B) *Application.* In addition to the requirements set forth in this chapter and the Apache Junction Tax Code, applicants for a mobile food vendor permit shall include the following information with the permit application:

- (1) A description of the goods to be sold;
- (2) If the applicant is an agent of the business for which the permit will be issued, the name and address of the agent, if different from the business address, together with credentials establishing the exact relationships with the mobile food vendor;
- (3) A description, license plate number and photograph of the vehicle or cart;
- (4) All location(s) from which the applicant intends to conduct business and a permanent address to which notifications may be sent;
- (5) A valid driver's license;
- (6) A mobile food vendor shall provide proof of vehicle liability insurance which shall be maintained during the term of the permit and shall have at least the minimum limits required by law;
- (7) A mobile food vendor who conducts business on public property or city right-of-way shall provide: a) a certificate of insurance naming the "City of Apache Junction" as an additionally insured party; and b) a signed indemnification and duty to defend and hold harmless commitment.

§ 8-10-3 MOBILE FOOD AND VENDING OPERATING CONDITIONS.

Mobile and temporary food and beverage vendors who have obtained a permit shall be subject to the following limitations and conditions:

- (A) Mobile vending shall only be permitted to operate on developed, commercially zoned property and shall not be authorized to operate on vacant lots and shall not impede access to adjacent businesses;
- (B) There shall be an open and operating permanent business on the site in order to accommodate the sanitary facilities access requirement of the Building Code (i.e, restrooms, trash, recycling, food waste and grease disposal). The temporary food and beverage vendor must also be able to use these facilities;
- (C) The hours of operation for the vendors shall be limited to the hours that the on-site, permanent business is open;
- (D) The vendor shall secure the permission of the sponsoring business owner;
- (E) Vendors/operators of food vending vehicles shall arrange for trash receptacles and will dispose of all trash during operations and shall keep the area surrounding the mobile food vending vehicles free of debris, litter and waste;

- (F) The temporary food and beverage vendors shall not store the vehicle or cart when the permanent on-site business is not open unless the operator has the sponsoring business owner's permission;
- (G) Mobile food vending vehicles or carts shall not be stored on the sponsoring business' property, when not in use, in lieu of placing it in a storage lot or similar facility regardless of the sponsoring business owner's permission;
- (H) Mobile food and beverage vending shall be limited to 96 consecutive hours maximum at each temporary location;
- (I) Signage attached to a mobile food vending vehicle shall not require a sign permit, but must conform to the signage regulations in the City of Apache Junction Zoning Ordinance. One A-frame sign or menu board per vehicle or cart is also permitted;
- (J) A mobile food vendor or operator shall carry at all times proof of liability insurance, mobile food vendor permit, county health department permit, food handling card and proof of property owner approval to be on a given property;
- (K) A mobile food vendor or operator may operate on city-owned or leased property, public right-of-way or city park as part of a civic event;
- (L) Mobile food vending shall not be permitted on any city street or public right-of-way unless it is part of a civic event;
- (M) Mobile food vendors shall be permitted to operate on private property at any location within the city when catering a private function and shall not stage the vehicle on public property or right-of-way.
- (N) If the mobile food vendor is charged a fee for the food truck space, the sponsoring business owner shall comply with city tax code requirements.

§ 8-10-4 PERMIT REVOCATION AND APPEALS.

- (A) A mobile food vendor permit shall be revoked by the city clerk's office for any of the following reasons:
 - (1) The permittee notifies the city in writing with appropriate signature that the business has been closed, sold or is no longer operating in the city; or
 - (2) Fraud, misrepresentation or false statement contained in the application for a permit;
 - (3) Any violation of this chapter or the City Tax Code; or
 - (4) Conducting a business activity in violation of the Arizona Revised Statutes.
- (B) Revoked permits may be reinstated only after the cause of such revocation has been fully corrected;
- (C) A person whose permit has been revoked shall be issued a notice to cease mobile food vending operations within the city;
- (D) Any person aggrieved by the city's decision to revoke a permit pursuant to subsection (A) above shall have the right of appeal to a hearing officer designated by the city manager. The appeal shall be filed with the city manager within 14 working days after receipt of the city's decision. The

appeal shall contain a written statement setting forth fully the grounds for the appeal. The hearing officer shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant. The decision and order of the hearing officer shall be final and conclusive, except any person aggrieved may pursue any proper judicial proceedings;

(E) No person may reapply for any permit after revocation unless the cause for such revocation has been corrected.

§ 8-10-5 PENALTIES.

Any person violating any of the provisions of this chapter, shall be deemed guilty of a class one misdemeanor and, shall upon conviction, be punished pursuant to the provisions of the Apache Junction City Code, Vol. I, Chapter 1: General, Article 1-1: General, § 1-1-11 Penalty.