

Ordinance 2014-22

SHORT TITLE:

An ordinance enacting Provo City Code Chapter 6.32 (Mobile Food Businesses) to regulate the licensing and operation of Mobile Food Businesses in the public right-of-way and on private property.

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	MOTION	SECOND	FOR	AGAINST	OTHER	
CW 1	DAVID SEWELL		✓	✓			
CW 2	GARY GARRETT					Excused	
CD 1	GARY WINTERTON			✓			
CD 2	KIM SANTIAGO			✓			
CD 3	HAL MILLER					Excused	
CD 4	KAY VAN BUREN			✓			
CD 5	STEPHEN HALES	✓		✓			
				TOTALS	5	0	2

This ordinance was passed by the Municipal Council of Provo City, on the 15th day of July, 2014 on a roll call vote as described above. Signed this 17th day of July, 2014.



Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this 21 day of July 2014.



Mayor

ORDINANCE 2014-22

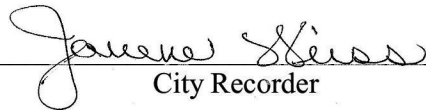
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CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was recorded in the office of the Provo City Recorder on the 21st day of July 2014,
with a short summary being published on the 19th day of July 2014, in The Daily Herald, a newspaper circulated in
Provo, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with
respect to Ordinance Number 2014-22.



Signed this 21st day of July 2014.



City Recorder

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ORDINANCE 2014-22.

AN ORDINANCE ENACTING PROVO CITY CODE CHAPTER 6.32
(MOBILE FOOD BUSINESSES) TO REGULATE THE LICENSING AND
OPERATION OF MOBILE FOOD BUSINESSES IN THE PUBLIC RIGHT OF
WAY AND ON PRIVATE PROPERTY. (14-020)

WHEREAS, Provo City desires to accommodate local mobile food businesses attempting
to sell their food products on public and private property within the boundaries of the
municipality in a way that promotes the economic and social growth of the City; and

WHEREAS, Provo City also desires to preserve public safety and order by creating a
public atmosphere conducive to the cautious and efficient flow of both pedestrian and vehicular
traffic on and near public sidewalks and streets, and desires to promote the public’s health, safety
and general welfare; and

WHEREAS, Provo City also desires to preserve a healthy balance between brick and
mortar businesses within city boundaries without giving mobile businesses a distinct and unfair
competitive advantage over those businesses; and

WHEREAS, on March 4, July 1, and July 15, 2014 the Municipal Council held duly
noticed public meetings to consider this matter and after considering the facts and comments
presented to the Municipal Council, the Council finds (i) the provisions establishing permits and
regulations for mobile businesses vending food on city streets, private property and other public
property as set forth below should be adopted for the reasons set forth above; and (ii) such action
reasonably furthers the health, safety and general welfare of the citizens of Provo City,

NOW THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as
follows:

PART I:

Chapter 6.32 of the Provo City Code is hereby enacted as follows:

- 6.32 Mobile Food Businesses**
- 6.32.010. PURPOSE AND INTENT
- 6.32.020. DEFINITIONS
- 6.32.030. MOBILE FOOD BUSINESS GENERAL REQUIREMENTS
- 6.32.040. APPLICATION
- 6.32.050. SEPARATE APPLICATIONS
- 6.32.060. LICENSE FEES
- 6.32.070. BUSINESS ACTIVITY TO BE TEMPORARY
- 6.32.080. USE OF PUBLIC RIGHT OF WAY
- 6.32.090. DESIGN AND OPERATION GUIDELINES
- 6.32.100. SIGNS
- 6.32.110. PROFESSIONAL AND PERSONAL SERVICES PROHIBITED

- 47 6.32.120. COMPLIANCE RESPONSIBILITY
- 48 6.32.130. SPECIAL EVENTS
- 49 6.32.140. SUSPENSION AND REVOCATION

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6.32.010. PURPOSE AND INTENT.

53 The Provo City Municipal Council expressly finds that mobile food businesses within public
54 streets pose special challenges to the public health, safety and welfare of Provo City residents. It
55 is the purpose and intent of the Municipal Council, in enacting this Chapter, to provide
56 responsible companies and individuals who engage in the operation of mobile food businesses
57 with clear and concise regulations to prevent hazards to safety, traffic or health, as well as to
58 preserve the peace, safety and welfare of the community.

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6.32.020. DEFINITIONS.

62 **MOBILE FOOD BUSINESS:** A business that serves food or beverages from a self-contained
63 unit that is a motorized vehicle or a trailer. The term "mobile food business" shall not include
64 vending carts or mobile ice cream vendors. Provisions found in this Chapter shall not apply to
65 seasonal farm stands and other temporary merchants or uses that are specifically authorized by
66 this Title or other City ordinances.

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6.32.030. MOBILE FOOD BUSINESS GENERAL REQUIREMENTS.

- 70 (1) No person shall operate a mobile food business, without first having obtained a business
71 license from Provo City in accordance with Chapter 6.01 of this title, or its successor.
- 72
- 73 (2) Mobile food businesses are allowed to operate in the public right of way only within the SC1,
74 SC2, SC3, FC1, FC2, DT1, DT2, GW, WG, CG, ITOD, CM, M1, M2, PIC and PF zones in
75 accordance with the provisions of this Chapter. Mobile food businesses shall be allowed to vend
76 on private property within all the aforementioned zones in Provo, with prior consent from the
77 private property owner.
- 78
- 79 (3) Except as otherwise provided in this Chapter, mobile food businesses are not allowed to
80 operate within the boundaries of the Food Truck Restriction Area. Food trucks may operate
81 along the peripheral street frontage of the Food Truck Restriction Area. The Food Truck
82 Restriction Area is described as follows: commencing at the intersection of 500 West Center
83 Street; thence north to 100 North Street; thence east to 200 West Street; thence north to 200
84 North Street; thence east to 100 East Street; thence south to 200 South Street; thence west to 200
85 West Street; thence north to 100 South Street; thence west to 500 West Street; thence north to the
86 point of beginning, and as graphically illustrated in this subsection:



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89 (4) Restrictions on mobile food businesses found in Sections 6.32.030(3) & 6.32.090(4) shall not
90 apply under any of the following circumstances:

91

92 (a) the mobile food business receives permission from the Mayor's Office to operate in
93 the Food Truck Restriction Area (the grant of this permission only exempts the mobile
94 food business from 6.32.030(3), not from 6.32.090(4));

95

96 (b) the mobile food business is catering an event, meaning the mobile food business has
97 been invited by the event sponsor to serve or sell food at an event that is not open to the
98 public; or

99

100 (c) the mobile food business is invited to a special event that is permitted and held in
101 compliance with Provo City Code 14.35.100.

102

103 (5) It shall be unlawful for any mobile food business to operate adjacent to a public park in or
104 next to a PF zone without the prior written consent of the Director of Parks & Recreation or
105 his/her designee.

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107 **6.32.040. APPLICATION.**

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109 (1) An application for a business license to conduct a mobile food business shall be filed in
110 writing with the Provo City business license office as set forth in Section 6.01.060 of this Title
111 prior to the commencement of operation.

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(2) In addition to the information required by such section, the license application shall include:

(a) the name and location of the applicant's principal place of business, or residence if no permanent place of business exists;

(b) the number of vehicles to be used in the business, a description of each vehicle, its license plate number, vehicle identification number (VIN) and proof of insurance coverage, & safety inspection.

(c) If any of the foregoing information changes, the applicant or licensee, as the case may be, shall deliver current information to the Provo City business license office within ten (10) business days following the change.

(3) If applicable, an applicant shall also provide a certified copy of the applicant's articles of incorporation, articles of organization, or similar document if the applicant is a corporation, limited liability company, or similar entity required to file such documents with the State of Utah or any other state for formation of the entity or before the state will treat the entity as separate from its owners.

(4) An application shall not be approved and no license shall be issued or renewed to an applicant if a criminal background check, administrative records search or application materials uncover information showing either the applicant or any driver has a record for any of the following:

(a) a conviction within the past ten (10) years of driving under the influence of drugs or alcohol; alcohol or drug related reckless driving, impaired driving, driving with any measurable amount of a controlled substance or metabolite of a controlled substance in the body, automobile homicide;

(b) any criminal conviction within the past ten (10) years for an offense involving violence, theft, possession or use of a deadly weapon, possession of controlled substances with the intent to distribute to another person or any conviction for a crime of moral turpitude; or

(c) misrepresentation of material facts in an application for a business license.

(5) A valid copy of all necessary licenses or permits required by the state or the Utah County Health Department, including, but not limited to, proof of business name and business owner's or registered agent's name as registered with the Department of Commerce and proof of a valid sales tax certificate from the State of Utah that includes Provo as the incorporated city where business is to be conducted.

(6) Each applicant for a license or renewal under this Chapter shall submit, with the application, a certificate of insurance executed by an insurance company or association authorized to transact business in this state, showing that there is in full force and effect, for the full term of the license, general liability insurance in an amount not less than two hundred thousand dollars (\$200,000)

158 for personal injury to each person, five hundred thousand dollars (\$500,000.00) for each
159 occurrence, and five hundred thousand dollars (\$500,000.00) for each occurrence involving
160 property damage; or a single limit policy of not less than five hundred thousand dollars
161 (\$500,000.00) covering all claims per occurrence. Such policy or policies shall also include
162 coverage of all motor vehicles used in connection with applicant's business. A current certificate
163 of insurance shall be kept on file with the City Recorder at all times that applicant is licensed by
164 the City verifying such continuing coverage and naming the City as an additional insured. The
165 certificate shall contain a statement that the City will be given written notification at least thirty
166 (30) days prior to cancellation or material change in the coverage. Cancellation shall constitute
167 grounds for suspension or revocation of the license issued hereunder unless another insurance
168 policy complying herewith is provided and is in effect at the time of cancellation/termination.
169

170 (7) A signed statement that the licensee shall hold the City and its officers and employees
171 harmless from any and all liability and shall indemnify the City and its officers and employees
172 from any claims for damage to property or injury to persons arising from any activity carried on
173 under the terms of the license.
174

175 (8) Each applicant for a license or renewal under this Chapter shall submit, with the application,
176 a valid fire inspection which includes the following requirements:
177

178 (a) All mobile food businesses shall have a currently tagged 5 pound ABC fire
179 extinguisher.
180

181 (b) Any mobile food business producing grease laden vapors shall have a Type I hood
182 with an approved fire suppression system. The hood shall:
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184 (1) Be UL listed

185 (2) Meet the applicable NFPA Standards

186 (3) Be installed, and maintained in accordance with the manufacturers
187 recommendations.
188

189 (c) The hoods and ducts shall be cleaned according to the manufacturers'
190 recommendations.
191

192 (d) Any mobile food business producing grease laden vapors shall have a currently
193 tagged Type K fire extinguisher
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195 (e) All electrical outlets within 6 feet of a water source shall be GFI outlets
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197 (f) No propane shall be stored inside of the cooking and passenger area of the vehicle
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199 (g) Any mobile food business operating in Provo City shall have an annual fire inspection
200 by Provo Fire Marshal's office.
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202
203

204 **6.32.050. SEPARATE APPLICATIONS.**

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206 Separate business license applications shall be required for each mobile food business. Separate
207 business license fees shall be required for each mobile food business vehicle operating under one
208 business license.

209

210 **6.32.060. LICENSE FEES.**

211

212 (1) Fees shall be required as shown on the Consolidated Fee Schedule adopted by the Provo City
213 Municipal Council. No license shall be issued or continued in operation unless the holder
214 thereof has paid an annual business regulatory fee as set forth in section 6.02.020 of this title, or
215 its successor section for each mobile food business.

216

217 (2) Licenses shall be paid in advance for the term of the license as set forth in 6.01.100 of this
218 title.

219

220 **6.32.070. BUSINESS ACTIVITY TO BE TEMPORARY.**

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222 All business activity related to mobile food businesses shall be of a temporary nature, the
223 duration of which shall not extend for more than twelve (12) hours within a twenty four (24)
224 hour period at any one location nor for more than three (3) consecutive days within a seven (7)
225 day period on either public or private property. All vehicles must be removed from the public
226 right of way at the close of each business day.

227

228 **6.32.080. USE OF PUBLIC RIGHT OF WAY.**

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230 Each mobile food business offering food within the public right of way shall abide by the
231 following conditions and requirements. Failure to comply may result in the suspension or
232 revocation of a business license, and is a class B misdemeanor:

233

234 (1) Mobile food businesses shall obey all parking and traffic regulations as stated in Title 9 of
235 this code.

236

237 (2) Parking on a Parkway, as defined in Provo City Code 15.020.040, or otherwise landscaped
238 area is not allowed.

239

240 (3) Mobile food businesses utilizing parking space within the public right of way shall park only
241 in parallel parking spaces. Mobile food businesses must be parked so that neither the vehicle nor
242 the customers interfere with public access to adjacent parking stalls or to driveways or entrances
243 of existing buildings or uses.

244

245 (4) The operator shall locate the vending window facing the sidewalk or on private property
246 unless the roadway has been closed to vehicular traffic for a public event.

247

248 (5) No mobile food business shall occupy required parking stalls of the primary use.

249

250 (6) The mobile food business shall ensure that its use of the right of way, including the sidewalk,
251 in no way interferes with or limits sidewalk users' free and unobstructed passage.

252
253 (7) No sales shall be made to any person standing in a roadway unless the roadway has been
254 closed to vehicular traffic for a public event.

255
256 (8) Mobile food businesses shall not operate on public streets where the speed limit exceeds
257 thirty five (35) miles per hour, unless the roadway has been closed to vehicular traffic for a
258 public event, or locations that are otherwise deemed hazardous by the Provo City Engineering
259 Division.

260
261 **6.32.090. DESIGN AND OPERATION GUIDELINES.**

262
263 Mobile food businesses shall comply with the following design and operation requirements:

264
265 (1) Mobile food businesses shall be designed and operated in a manner so as to meet all
266 applicable Utah County Health Department requirements relating to the handling and distribution
267 of food.

268
269 (2) The mobile food business shall not have or operate as a drive-through.

270
271 (3) Mobile food businesses shall be kept in good operating condition and no peeling paint or rust
272 shall be visible on business vehicles.

273
274 (4) No mobile food business shall operate within a one hundred foot (100') radius of any public
275 entrance to a restaurant or City-authorized special event selling food, unless the mobile food
276 vendor obtains the written consent of the proprietor of such restaurant or shop. Such consent
277 shall not exempt the applicant from compliance with the other location and distance restrictions
278 of this Chapter.

279
280 (5) All grounds utilized by a mobile food business shall at all times be maintained in a clean and
281 attractive condition. Trash and recycling containers shall be provided for use of the business
282 patrons. If a mobile food business has operated on or adjacent to a public right of way, that
283 vendor shall be responsible for cleaning up litter dropped or discarded onto the public right of
284 way prior to leaving the location.

285
286 (6) Any canopy extensions must be integrated into the design of the mobile food business vehicle
287 and must not project onto or over the public sidewalk or any other part of the public right of way
288 in a way that impedes pedestrian passage or is lower than seven (7) feet measured from the
289 lowest portion of the canopy to the sidewalk or ground surface. Walled enclosures, whether hard
290 or soft, are not authorized. Chairs and tables are not allowed in the parkway or public right of
291 way.

292
293 (7) Any auxiliary power required for the operation of the mobile food business shall be self-
294 contained. No use of power or water located on private property is allowed without written
295 consent from the owner, or the owner's authorized designee.

296 (8) All garbage or other refuse generated from a mobile food business shall be disposed of
297 properly. It is illegal to discharge or dispose of any substance, material, food, or waste into the
298 storm drain system.

299
300 (9) Licensees/owners will ensure their business vehicles are at all times in compliance with all
301 other applicable laws or ordinances regulating motor vehicles.

302
303 **6.32.100. SIGNS.**

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305 No signs shall be used to advertise the conduct of the mobile business at the premises other than
306 those which are physically attached to the vehicle, except that a two foot by three foot (2' x 3')
307 menu board may be placed nearby to display the menu.

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309 **6.32.110. PROFESSIONAL AND PERSONAL SERVICES PROHIBITED.**

310
311 Professional or personal services shall not be provided from a mobile food business.

312
313 **6.32.120. COMPLIANCE RESPONSIBILITY.**

314
315 (1) The license holder shall not be relieved of any responsibility for compliance with the
316 provisions of this Chapter, whether the holder pays salary, wages or any other form of
317 compensation to drivers.

318
319 (2) All vendors are subject to Provo City Sales Tax for goods sold within the boundaries of
320 Provo City. Vendors shall be required to keep accurate records of daily sales that occur within
321 the Provo City limits. Provo City reserves the right to audit sales records. Failure to keep
322 accurate records may result in revocation of the Provo City business license.

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324 **6.32.130. SPECIAL EVENTS.**

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326 The restrictions of this Chapter notwithstanding, nothing herein shall prohibit the City from
327 authorizing mobile food businesses, other than those licensed under this Chapter, to conduct
328 concurrent vending operations within the public right of way, or such other areas as the City may
329 deem appropriate, during special events (special event vendors). The special event vendors shall
330 still be governed by this Chapter, except as specifically provided otherwise by the special event
331 permit or such other ordinance, policy, or executive order as may be applicable. However, as
332 long as the public right of way remains open to the general public, such authorization of special
333 event vendors shall not require removal of a permittee under this Chapter from operating within
334 an otherwise lawfully occupied location or a mutually acceptable adjacent alternative location
335 during such special event, unless otherwise provided under City ordinances. If the City is closing
336 a public right of way to general access, either partially or fully, in order to accommodate a
337 special event, a mobile food business may not access that right of way unless specifically
338 authorized by the City.

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342 **6.32.140. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION**

343 Failure to comply with the requirements of this Chapter shall be grounds for denial, suspension
344 or revocation of a business license.