

Chapter 23. Kiosks, Mobile Stores, Swap Meets, Sidewalk and Parking Lot Sales

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28-23-1 Definitions.

Kiosk shall mean a structure two hundred square feet or smaller in area and affixed to a permanent foundation. A Kiosk is secondary to a main use found on the site but not necessarily related to the main use. Therefore, a kiosk does not require a separate lot. A Kiosk may be used for the purpose of giving information, retailing goods, or providing services.

Mobile Store shall mean a portable structure, including vehicles, without a permanent foundation, for use on a temporary or seasonal basis, from which goods or merchandise are sold or where a service is provided which is utilized on the premises. This definition shall also include such operations as Christmas tree sales.

Off-Site Sale shall mean the temporary use of property for the purpose of selling any type of merchandise, in which said property is not under the direct ownership of the seller.

Owner shall mean the person having ownership. Person includes any individual, group of individuals, partnership, corporation, association or other legal entity.

Recyclable Materials shall mean aluminum, steel, copper, plastic, glass, paper and/or other similar items that may be recycled for remanufacturing or reprocessing of similar materials.

Resource Recycling Collection Point shall mean a portable structure, enclosed bin or trailer, where recyclable materials are exchanged for money or deposited as a donation.

Reverse Vending Machine shall mean a machine for the collection of recyclable materials which will

dispense U.S. coins or receipts redeemable for U.S. currency to the depositor according to the number or weight of collected recyclable materials.

Seller shall mean any person or persons offering for sale any item at a swap meet.

Sidewalk or Parking Lot Sale shall mean a city licensed business offering goods for sale at a temporary, special event where a parking lot or sidewalk associated with the business, other than public right-of-way is utilized for display of goods.

Swap Meet shall mean a location where the owner or lessee rents, lends or leases portions of the premises to persons for use as an open market place to barter, exchange or sell goods. A flea market shall be considered a swap meet. Yard sales and garage sales at residences are not swap meets.

28-23-2 General Regulations. The Building Official shall review all applications for uses described in this chapter to ensure the protection of the public health, safety, and general welfare. The Building Official shall not authorize a kiosk, mobile store, resource recycling or reverse vending machine use permit unless all of the following conditions are met:

- (1) The use will not be materially detrimental to the public health, safety, or welfare, nor injurious to property or improvements in the immediate vicinity of the use; and
- (2) The use is compatible with the purpose and intent of this code and the specific land use in which it will be located; and
- (3) The use is compatible in intensity and appearance with the existing land uses in the immediate vicinity of the use; and
- (4) Structures proposed for the use comply with setback and clear view requirements of the zoning ordinance and the applicable Building and Fire Code standards; and
- (5) Access is provided such that on-street parking is not required. The use shall be placed so as not to disrupt the traffic flow into or on the site; and
- (6) Adequate parking is provided to serve the use, and if applicable, the use does not create a parking shortage for other existing uses on the site; and
- (7) Hours of operation of the use are specified and are noted on any structure, trailer, bin or vehicle on the site where the operation is conducted; and
- (8) The use will not cause noise, light, or glare which adversely impacts surrounding uses; and

(9) The applicant has obtained written permission from the property owner to locate the proposed use; and

(10) No other kiosk, mobile store or resource recycling collection point is found within two hundred fifty feet of another such use; and

(11) The use complies with all sign requirements as described in Title 24 "Signs and Advertising Devices;" and

(12) The use shall be located on improved property including a main building, paved parking, curb and gutter, sidewalk, landscaping and fire protection systems as required by the city; and

(13) Each kiosk, mobile store, swap meet, sidewalk and parking lot sale shall have a current Clinton City business license except when said use is a part of the main use found on the site. Each company or individual operating one or more resource recycling collection points and/or reverse vending machines shall have a single current business license.

(14) Each kiosk, mobile store, swap meet, sidewalk and parking lot sale shall apply for and gain a conditional use permit as outlined in Chapter 5, of this Ordinance.

28-23-3 Kiosk Regulations. In addition to the regulations listed in 23.02, kiosks shall also meet the following requirements;

(1) A kiosk shall have appropriate utility connections, inspected for compliance to city codes.

(2) When applicable, a kiosk shall have written acceptance of the operation from the Davis county Health Department.

(3) No kiosk shall be located closer than one hundred (100) feet to any residentially zoned property.

(4) A kiosk shall be surrounded by a minimum four-foot wide landscape strip except at the entrance drive-up window or walk-up-window.

(5) The site shall be cared for so as to keep it in a clean, neat and orderly manner.

(6) A kiosk shall collect and keep all waste within the structure except at time of pick-up.

(7) A kiosk shall be illuminated to ensure the comfort and safety of patrons during nighttime hours.

28-23-4 Mobile Store Regulations. In addition to the regulations listed in 23.02, mobile stores shall also meet the following requirements:

(1) The structure shall have a maximum outside display area of one hundred square feet located a

minimum of ten feet from all property lines, not in landscaped areas and not obstructing access to the property; except that Christmas tree sales lots may be located as approved by the planning commission.

(2) The structure shall be secured to or placed on the ground so as to be stable in a seventy-five mph wind.

(3) The structure shall have appropriate utility connections, inspected for compliance to city codes.

(4) When applicable, a mobile store shall have written acceptance of the operation from the Davis County Health Department.

(5) No mobile store shall be located closer than one hundred (100) feet to any residentially zoned property.

28-23-5 Resource Recycling Collection Point

Regulations. In addition to the regulations listed in 23.02, resource collection points shall also meet the following requirements:

(1) All recyclable materials shall be contained within an enclosed container.

(2) The site shall be cared for so as to keep it clean, neat, free of snow, and in an orderly manner. All lids to the bin must be kept closed. The host property owner and/or the sponsoring party must check bins on a daily basis. If the site is not kept clean the host and sponsor will be sent a letter requiring them to bring the site into compliance. If the site receives two (2) such letters the Planning Commission may revoke the right of the sponsor and the host to locate a recycling collection bin at the site. If this right is revoked letters will be sent to the sponsoring party and the recycling bin owner. The recycling bin must be removed within fourteen (14) days of the action by the Planning Commission or the City will remove the bin and the cost of removal and storage will be charged to the recycling bin owner.

(3) The structure shall be secured to or placed on the ground so as to be stable in a seventy-five mph wind.

(4) The structure shall have appropriate utility connections, inspected for compliance to City codes.

(5) No receptacle shall exceed forty feet in length.

(6) No receptacle shall be located closer than one hundred (100) feet from any residentially zoned property unless specifically approved by the Planning Commission. Resource recycling collection points in single family residential zones shall be allowed only on institutional use properties with Planning Commission approval. Resource recycling collection points may also be located in apartment complexes in multi-family zones with Planning Commission

approval if the resource recycling collection point does not interfere with required parking. The following criteria shall be used in determining if a resource recycling collection point shall be allowed in commercial or residentially zoned property or located closer than 100' to residentially zoned property:

- (a) Existing landscape buffers and screening walls between the recycling collection point and the residential use.
- (b) Consideration regarding existing lighting in the area where the recycling collection point is proposed.
- (c) The recycling collection point must be a minimum of fifty-feet (50') from residential structures.
- (d) Consideration regarding proximity and view from existing streets.
- (e) Resource recycling bins must be colored using neutral earth tones.
- (f) If two units are placed on a single parcel they must be compatible and similar in size.
- (g) Each receptacle shall be clearly marked with the owner's name, address and telephone number, and notice that no recyclable materials or waste shall be left outside the approved container.

28-23-6 Reverse Vending Machine Regulations.

In addition to the regulations listed in 23.02, reverse vending machines shall also meet the following requirements:

- (1) The reverse vending machine shall not exceed two hundred (200) square feet in area.
- (2) The reverse vending machine shall be of durable construction.
- (3) The structure shall be secured to or placed on the ground so as to be stable in a 75 mph wind.
- (4) The structure shall have appropriate utility connections, inspected for compliance to City codes.
- (5) The reverse vending machine shall be clearly identified with the permittee's name, address, telephone number, hours of operation, and notice that no recyclable materials or waste shall be left outside the machine.
- (6) The site shall be cared for so as to keep it in a clean, neat and orderly manner.
- (7) The reverse vending machine shall have a wholly self-contained mechanical process inaccessible to the public, designed for the specific purpose of

dispensing coins or issuing receipts in exchange for the return of recyclable materials.

(8) The reverse vending machine shall retain all recyclable materials deposited into the machine. It may retain, reject, or not accept non-recyclable material.

(9) The reverse vending machine shall have an electronic weighing or counting system shall be certifiable by the State Department of Weights and Measures to ensure proper posted payments to the public.

(10) The reverse vending machine shall inform the user by visual display or audio communication the number or weight equivalent of recyclable materials deposited and the coin or currency value being paid for such recyclable materials.

(11) The reverse vending machine shall be serviced and unloaded as required to maintain continuous operation and clean appearance.

(12) The reverse vending machine shall be illuminated to ensure the comfortable and safe operation of the machine between dusk and dawn.

(13) No reverse vending machine shall be located closer than one hundred (100) feet to any residentially zoned property.

28-23-7 Off-Site Sales Regulations. Off-site sales shall comply with all of the following requirements:

(1) Purpose and Intent: It is the purpose and intent of this section to facilitate the mutually beneficial activity of off-site sales while protecting the public's health, safety, and welfare. The City desires that businesses within the City be able to use their property to enhance the business and that creative marketing strategies not be encumbered. The City also desires the integrity of traffic flows, fire lanes, pedestrian traffic, and aesthetic objectives not be compromised.

(2) Property owner responsibilities. An application for a conditional use for conducting off-site sales shall be submitted by the property owner to the Community Development Department at least four (4) Mondays prior to the Planning Commission meeting the applicant requests to be scheduled for. A conditional use application for an off-site sale shall contain:

(a) A site plan which shall contain the following information:

(i) The area that will be utilized by the off-site sale in detail, including the existing parking, landscaping, fire access lanes, drive accesses, etc.

- (ii) The location of any signs to be placed for the off-site sale.
- (iii) The location of any temporary structure including, but not limited to, fences, tents, canopies, food sales equipment, etc.
- (iv) Completed conditional use application with the required fee.

(3) Vendor responsibilities. The vendor shall be responsible for submitting the application for the temporary business license/off-site sales permit to the Community Development Department no later than seven (7) days prior to the sale. The applicant shall comply with all of the following requirements:

- (a) Proof that the Utah State Tax Commission has been notified of the off-site sale or proof of exemption.
- (b) Each individual off-site sale shall require a separate temporary business license.
- (c) No off-site sale shall be conducted for more than five (5) consecutive days.
- (d) No portion of any off-site sale may be conducted within the landscaped areas on the site including the placement of signs.
- (e) The off-site sale shall not utilize more than thirty-five percent (35%) of the required off-street parking for the on-site merchant. In no situation shall public streets be used for parking.
- (f) There may be multiple vendors using one off-site sale site if they are within the approved site plan area and each has obtained a temporary business license.
- (g) The on-site merchant or property owner may also utilize designated parking area as long as it is in compliance with the approved site plan.
- (h) The off-site sale shall not cause any designated fire lane to become blocked at any time.
- (i) No merchandise shall be placed in a manner that constitutes a hazard to the walking or driving public, i.e., the blocking of clear view areas.
- (j) Any applicant that is denied a temporary business license by the Community Development Department may appeal such decision to the Planning Commission at the next practical, regularly scheduled meeting which is at least fourteen (14) days in advance of the first day of the off-site sale.

28-23-8 Swap Meet.

- (1) It shall be unlawful for any person, firm, corporation, or charity to hold a swap meet or flea market without having first obtained a license

therefore, as is herein provided; but the license for a charity may be waived by the City Council.

(2) An application for swap meet license shall be made to the Community Development Department and shall state thereon the name of the applicant, the place of business, and the number of employees intended to be engaged. The applicant shall provide a faithful performance bond for the amount of \$1,000 acceptable to the Community Development Director, as an agent of Clinton City engaged in selling of business licenses as required in Section 20.8.3. The fee for issuing a swap meet license shall be as set forth in the Clinton City Consolidated Fee Schedule. The applicant shall provide a Utah Criminal History and National Child protection Act Background Check, BCI WIN check. In addition, an inspection by the Clinton City Building Division and the Clinton City Fire Department shall be conducted to verify compliance with applicable building and fire code requirements.

(3) All sellers shall either apply for a separate business license in order to sell on the premises of a swap meet licensee, or shall pay to the City, through the licensee, a fee of \$1.00 per sales day and shall furnish to the swap meet licensee a written application containing the following information:

- (a) His or her name, address, occupation, and driver's license number and State of issue. If the applicant has no driver's license, he or she shall show some other form of positive picture identification, and the identifying numbers shall be recorded on the application.

- (b) A general description of the articles he or she is offering for sale. If any of the articles have serial numbers, the specific article, its description and its serial number shall be listed.

- (c) The following certification is to be signed by the applicant: "I certify that I am the lawful and legal owner of the listed property which is free and clear from all liens and encumbrances, I further certify that the property descriptions are true and correct, and I am aware that a copy of this application shall be forwarded to the Chief of Police immediately after it is submitted to the owner of the premises where the sale is held."

(4) A swap meet licensee shall have the right to issue daily business licenses to individual sellers upon receiving the required \$1.00 per sales day fee and the signed application as required by this Chapter. This fee shall be remitted to the City. A licensee shall have the right to refuse to issue a daily business license to any applicant who does not have positive

identification or who the licensee has reasonable cause to believe is attempting to sell stolen property.

(5) The information required in Section 20.8.4, above shall be recorded in triplicate on a form provided by the City. One copy shall be delivered to the Community Development Department along with the proceeds from licenses sold, on a weekly basis. The reports are due on Monday mornings. One copy shall be delivered to the seller and the licensee shall retain the remaining copy.

(6) No sales of firearms, pyrotechnics, ammunition, explosives, alcoholic beverages, pornography, drug paraphernalia, medicines, drinks or food or any contraband, shall be made by daily sellers on the swap meet licensee's premises; except the sale of food or drink prepared on the premises where the seller thereof has applied for and obtained the necessary health department permits; or where such sale of food and drink only involves packaged or canned goods obtained from another licensed and regulated business. In addition, any animals that are sold at a swap meet shall be sold in accordance with the rules and regulations established by Davis County Animal Control and are subject to their inspection. Animals shall be kept in a shaded area, and shall have food and water immediately available.

(7) It shall be the duty of every swap meet licensee to report to the Clinton City Police Department any article he or she has reason to believe was stolen, or lost, and for sale by a seller at the swap meet.

(8) A business license or a one-day license shall be denied, suspended or revoked without refund where the applicant, licensee, one-day licensee, or manager or operator of the swap meet:

(a) Is not 18 years or older; or

(b) Is not found to be of good moral character; or

(c) Who has, in the past seven years, been convicted of or is presently charged with a felony in violation of any law relating to burglary, theft, robbery, receiving stolen property, or any law involving moral turpitude;

(d) Who has, in the past five years, been convicted of or is presently charged with a misdemeanor in violation of any law or ordinance relating to theft, receiving stolen property, or any law or ordinance involving moral turpitude; or

(e) Who has any outstanding warrants, or who pled guilty to or forfeited his bail on a charge of having committed a felony; or

(f) Who is a partnership, any member of which lacks any of the qualifications of this section; or

(g) Who is a corporation in which an officer or director lacks any of the qualifications of this section.

(h) In addition to the other penalties provided by law, any swap meet licensee violating the provision of this Chapter may have his or her license revoked or suspended.

(9) A swap meet operator shall obtain a temporary business license, shall not conduct the business of pawnbroker or secondhand dealer without having obtained the licenses required for such businesses as provided in Title 15.

(10) A swap meet operator shall hire Uniformed Category 1 peace officers to be present at each swap meet to insure that the provisions of this Chapter are complied with and that other applicable City ordinances and State statutes are not violated. The number of officers required shall be as follows:

(a) One officer shall be required for all swap meets with 25 or less one-day licensees.

(b) Two officers shall be required for all swap meets with more than 25 but less than 100 one-day licensees.

(c) One additional officer shall be required for each 100 daily licensees above the first 100. The costs for providing said peace officers shall be paid for by the swap meet licensee.

(11) A swap meet shall not operate for more than two days in any seven-day period.

28-23-9 Sidewalk and Parking Lot Sales.

(1) All businesses are limited to two parking lot or sidewalk sales per year and all such sales shall run no longer than three days unless otherwise accepted by issuance of a conditional use permit as outlined in Chapter 5 of this ordinance. During consideration of any conditional use permit the Commission will also consider the following items 117:

(a) Establish a date of expiration of the permit not to exceed five (5) years from the date of issue. If the Planning Commission does not stipulate an expiration date the permit is assumed to expire five (5) years from the date of issue.

(b) Parking lot sales lasting longer than three (3) days shall be fenced with a temporary structure suitable to the Commission.

(c) Sale of gravel, fertilizer, seed, or other such items that can be carried by the wind, create obnoxious odors, or easily scattered shall only be allowed in packaged quantities, not as bulk sales.

(d) Specific consideration shall be given to the length of time the sale is permitted and an end of sale date shall be established during as part of the permit. If the Planning Commission does not establish an end of sale date the assumed end of sale date shall be four (4) months from the date of issue.

(2) All parking lot and/or sidewalk sales shall be associated with a City licensed business. All sales shall be of material normally or significantly similar to those items sold by the business hosting the sale.

(3) Parking lot sales shall not reduce the number of parking stalls required to normally support the business and shall not require additional parking within the public right-of-way.

(4) Placement of goods within a parking lot shall be so as not to disrupt the traffic flow into or on the site.

(5) Entry into and from the sales area shall be at a controlled point that will not inhibit traffic or create an unsafe situation for pedestrians.

(6) The perimeter of the sales area shall be fenced with a minimum four (4) foot high fence.

(7) Sales shall be conducted during normal business operating hours for the host business however; they shall not extend past sunset.

(8) Temporary exterior lighting shall not be erected to facilitate a sale of this type.

28-23-10 Performance Assurance. A bond or other valuable assurance in favor of Clinton City may be required by the Planning Commission. The amount of said bond or other assurance shall be established by the planning director and shall not exceed the cost of removing the use from the premises or as otherwise prescribed by law.

28-23-11 Removal of Abandoned Uses. Any kiosk, mobile store, resource recycling collection point, reverse vending machine, or structures or equipment associated with an off-site sale that is abandoned from use for fifteen (15) or more consecutive days, shall be removed from the site at the request of the Community Development Director or his representative. Failure to remove the structure from the site within thirty (30) days after receiving written notice may result in forfeiture of the performance assurance and prosecution as a violation.

28-23-12 Exceptions. City sponsored functions containing or involving one or more kiosk, mobile store, resource recycling collection point, reverse vending machine shall be established, operated and maintained in accordance with rules and procedures established by the Clinton City Council

utilizing the standards established in this ordinance as guidelines.

28-23-13 Violations. Violations of any of the prescribed criteria for kiosks, mobile stores, resource recycling collection points, reverse vending machines, swap meets, sidewalk sales, parking lot sales or off-site sales will result in revocation of permits and/or licenses and prosecution as outlined in Chapter 1 "Administration and Permits."