

5.2.4. OUTDOOR COMMERCIAL ESTABLISHMENTS

A. Purpose

Outdoor commercial establishments allow a transient or mobile commercial use and/or structure not otherwise allowed under the Town's Zoning Chapter to locate within the Town on any non-residential property with the owner's consent. This section is intended to allow outdoor commercial establishments which contribute to the pedestrian and small mountain town atmosphere of the Town by permitting certain outdoor commercial uses.

B. Permit Approval

It shall be unlawful to construct, erect, or use, or to cause to be constructed, erected, changed, or used, in any zoning district of the Town, any outdoor commercial structure, or equipment, or to engage in an outdoor commercial use, unless and until an outdoor commercial establishment permit has been approved by the Community Development Department as provided in this Section 5.2.4. At the discretion of the Community Development Department, any application for an outdoor commercial establishment permit may be referred to the Planning Commission for approval.

C. Permitted Uses

1. Outdoor commercial establishment permitted uses include and are limited to the following: mobile food vendors, including carts and trucks, mobile vendors of merchandise, sale of merchandise, such as for sidewalk sales and other special events, seasonal farmer's markets and other similar fresh food sales, temporary art and craft fairs and festivals, seasonal holiday sales, and community events.
2. Mobile vendors are defined as mobile carts and trucks that are under independent ownership from an established business located within a building in Frisco.
3. The following criteria apply to mobile vendors along Main Street between Madison Avenue and Summit Boulevard:
 - a. There shall be no more than one mobile vendor per each Main Street block. For purposes of this section, a Main Street block is defined as both sides of Main Street between any two intervening cross streets. Issuance of an outdoor commercial establishment license for such use shall be on a first come first serve basis, based upon the date of a complete application for the use.
 - b. All Mobile Vendor structures or equipment shall not utilize temporary tents, and each outdoor commercial establishment must be able to secure the structure or equipment utilized each night while not in use.
 - c. All outdoor commercial use that includes the sale of food shall remove any food item and trash from the structure or equipment each night while not in use.
 - d. No Mobile Vendor may be in operation and open for business during more than 180 days in any calendar year.
4. Exemption: Notwithstanding any of the forgoing, any Town-sponsored outdoor community-wide events and festivals, held on Town-controlled property or on private property with permission of the property owner, are exempt from the regulations under this section.

D. Permit Review Criteria

The Community Development Department shall approve an application if all of the foregoing and following applicable criteria and specific regulations are met or may deny an application for failure to meet the foregoing or following applicable criteria and specific regulations, or may impose such conditions of approval as may be necessary for approval of an outdoor commercial establishment permit to ensure that all of the following applicable criteria and specific regulations are met:

1. The allowance of such outdoor commercial establishment will not be detrimental to the public health, safety, or general welfare, and the outdoor commercial establishment is compatible with the purpose and intent of this Chapter and the specific zoning district in which the outdoor commercial establishment is proposed.
2. The outdoor commercial establishment is compatible in intensity of use, characteristics, and appearance with the existing land uses in the immediate vicinity of the proposed location. The use, value, and qualities of the neighborhood surrounding the proposed location will not be adversely affected by the outdoor commercial establishment or activities within it. Factors such as location, access, traffic generation, noise, lighting, parking, dust control, hours of operation, and structure, height, size, and appearance will be considered.
3. The applicant shall provide as part of their application written consent from the property owner. If the outdoor commercial establishment is to be located partially or entirely on Town property, approval of the Town Council is required.
4. Adequate parking is to be provided to serve the outdoor commercial establishment. The outdoor commercial establishment must not be located on or displace required parking spaces, including off-site spaces, seasonal snow storage areas (from October 31st to April 15th) or loading areas of the principal permitted uses on the site. Required parking will be calculated based on the Town's parking requirements in Section 6.13 of this Chapter. Parking required for the outdoor commercial establishment shall be paved unless the applicant provides a method to minimize air pollution or dust on the property and on adjacent properties.
5. No food or drink may be sold except in accordance with the standards and written approval of the Summit County Environmental Health Department, such approval must be submitted at time of application to the Community Development Department
6. All lighting proposed for the outdoor commercial establishment shall meet the requirements of Section 6.16, Outdoor Lighting. No spot lights shall be permitted.
7. It shall be unlawful for any outdoor commercial establishment merchandise or other promotional materials to hang from any building facade or door or from any foliage, and no outdoor commercial establishment shall block any window, door, or architectural feature of a building.
8. Outdoor commercial establishments shall not be located within the right-of-way of any Town street or alley without the approval of the Town Council. Outdoor commercial establishments, upon approval from the Community Development Department and Public Works Department, may be allowed within the Town's three foot sidewalk easement adjacent to both sides of the Main Street right-of-way as long as the outdoor commercial establishment does not significantly impede pedestrian traffic, snow removal, or general maintenance activities.
9. No outdoor commercial establishment will be approved in a residential zoning district under this section of the Town Code or in an area where exclusively residential uses exist.
10. Mobile Vendors. In addition to meeting all other requirements of this section, mobile vendor structure or equipment must provide for trash disposal and remove trash daily. Mobile vendor structure or equipment may not exceed 100 square feet in area.
11. Formal seating areas are not permitted for any mobile vendor structure or equipment.
12. An outdoor commercial establishment is limited to a maximum of ten square feet of signage, including any banners, and such signage may not be affixed to any building. No other items intended to draw attention to the outdoor commercial establishment are permitted (such as balloons, flags, etc.). All other requirements of Section 6.19 as amended from time to time, shall apply.

13. For outdoor commercial establishments on Town-controlled property, at the discretion of the Town Council, financial security may be required to ensure compliance with any condition of approval and/or to ensure that the subject property is restored to its original use and condition.
14. Before an outdoor commercial establishment involving the sale of merchandise or food may begin, the applicant's business must have a valid business license from the Town Clerk's office.

E. Application

Application for an outdoor commercial establishment permit shall include:

1. A general development application form obtained from the Community Development Department.
2. A plan showing property lines, existing and proposed features relevant to the outdoor commercial establishment, the location of the outdoor commercial establishment in relationship to uses and structures in the immediate vicinity, setbacks from property lines, fencing or screening, lighting, trash receptacles, sign locations, parking, and anticipated circulation patterns. An application for an outdoor commercial establishment shall include drawings or pictures of any structure or equipment including elevations and a description of colors and materials proposed.
3. A letter of intent explaining the nature of the outdoor commercial establishment including but not limited to the time period requested, hours of operation.
4. Such other information as may be deemed necessary by the Community Development Department for the purposes of evaluating the application.
5. Payment of the applicable permit fee and security deposit, if any. If determined necessary by the Community Development Department or Town Council, financial security may be required to ensure compliance with any and all conditions of approval and/or to restore the subject property to its original use and condition.

F. No Vesting of Outdoor Commercial Establishments

A development application for and an approval of an outdoor commercial establishment shall not constitute nor be interpreted by any property owner, applicant or court as a site specific development plan entitled to vesting under Article 68 of Title 24 of the Colorado Revised Statutes. Outdoor commercial establishments shall be considered transitory at all times and shall not vest. The failure of an applicant to adhere to any condition of approval for an outdoor commercial establishment shall result in the immediate forfeiture of approval and such establishment and the use of any accompanying structure or equipment shall immediately cease and may be subject to abatement as a public nuisance as provided for in the Code of the Town of Frisco.

G. Appeals

Any appeal of the Community Development Department decision regarding an outdoor commercial establishment permit shall be made in accordance with Section 2.7.1 of this Chapter.

H. Expiration of Approval

If a holder of an approved outdoor commercial establishment fails to renew the Town's annual business license within six months of receipt of said license renewal, the previously approved outdoor commercial establishment permit shall be deemed to be expired. An application for a new outdoor commercial establishment permit meeting all of the standards of this Section 5.2.4 will be required.

I. Approval

Any change in use or location of an approved outdoor commercial establishment shall require a new outdoor commercial establishment application be submitted to the Community Development Department for review.

J. Nonconformity

Any existing outdoor commercial establishment approved prior to the adoption of the current requirements may continue to operate under the conditions of approval.

K. Fire Extinguisher Requirement

All mobile vendors with any heat source, and any mobile vendor using electricity for the purposes of operating equipment are required to have an approved fire extinguisher with a classification of 2-A:101B:C at the location of the outdoor commercial establishment.