



455 Mountain Village Blvd. Mountain Village, CO 81435
(970) 369-8606

TO: Town Council
 FROM: J.D. Wise, Economic Development Director
 Molly Norton, Community Engagement Coordinator
 DATE: September 12, 2024
 RE: Consideration of Approval of the Revised Plaza Vending Regulations

EXECUTIVE SUMMARY:

Since April 2024, the Plaza Vending Committee has hosted a series of work sessions to review, discuss, and recommend changes to the Plaza Vending Regulations. Through this process, the Committee incorporated public, business, town staff and committee member input into the revised regulations that are presented today.

At its September 5, 2024 meeting, the Committee voted to approve the draft vending regulations included in this memo. The regulations now come before Council for review and approval.

ATTACHMENT:

- Revised Plaza Vending Regulations

BACKGROUND:

The Plaza Vending Committee began meeting in April 2024 after Town Council's approval to reestablish the Committee. Consisting of a member of Town Council, a brick & mortar representative, a vending business representative, an at-large member, and a Town staff person, the newly formed Committee set out to gather public and business input on the current plaza vending program and began tackling areas of concern and needing improvement in the regulations. A survey was distributed (see [public](#) and [business](#) survey results) and 5 meetings were held in-person and virtually to discuss an established list of topic areas (including location, number of vendors, offerings, rent and the application process). The Committee established a goal statement to help guide and provide a "true north" to our discussions and decision-making on revising the regulations.

Goal statement: Our goal is to thread the needle of the complexities of the plaza vending program that respects the significant investment and commitment of our brick-and-mortar businesses in a way that brings vitality to the Mountain Village economy and experience. The program strives to provide balanced and diverse food and beverage vending offerings for our residents, employees, and guests in a way that brings equity across business types while not causing undue or material hardship to existing or prospective businesses.

An overview of the proposed changes is provided below.

At the September 5, 2024 Plaza Vending Committee meeting, committee members in attendance voted unanimously to approved the drafted revisions to the Plaza Vending Regulations and to submit them to Council for approval.

OVERVIEW:

The following is a descriptive list of the major changes to the regulations:

- Making clear that existing vendors must submit changes to their menu, services or operations to the Plaza Vending Committee and provides how to do so.



- Provides more administrative details for late application review.
- Makes it a requirement of the vendors to attend (virtually or in-person) the Plaza Vending Committee meeting to present their application and provide their “pitch” on why they would be a good vending fit in Mountain Village.
- Revises the criteria for decision providing a ratings scale for committee members to review and assess the application and provide comments. Removes the “directly competes” criteria and rather focuses on “diversity of offerings” in the core and the appropriate location for carts.
- Requires vendors to use a high-quality, neutral colored cart cover for cart storage. Cart storage will now be more public facing and appropriate covers are being requested by Town staff to adhere to the aesthetics of Mountain Village.
- Clarity on when rent begins each season.
- Makes clear the vendors’ responsibility for cleaning and repairing damaged plaza space.
- Makes adjustments to winter vending locations, and establishes the historic Wax Guru location as allowing only a non-food vendor.
- Reduces the number of approved vendors in the summer, and adjusts vending locations.
- Allows for staff to re-assign vendors to the most appropriate approved vending location on an seasonal basis.

STAFF RECOMMENDATION:

1. Staff recommends approval of the Plaza Vending Regulations as presented.

RECOMMENDED MOTION:

I move to approve the Town of Mountain Village Plaza Vending Regulations as presented.

TOWN OF MOUNTAIN VILLAGE VENDING REGULATIONS

1. Purpose and Intent

The purpose of these regulations is to establish criteria for the placement of vending apparatuses in the Town of Mountain Village. Vending opportunities provide the community a ~~wider diverse~~ choice of eating, drinking, and vending options and provide suitable, ~~low-cost~~reasonably-priced sites for the incubation of new business in Town.

The Town of Mountain Village Vending Regulations (“Vending Regulations”) are intended to regulate the location, design and use of vending apparatuses and temporary vending structures within public plazas and similar areas ~~in order to~~ ensure such activities contribute positively to the vibrancy of the Village Center and other public plaza areas.

~~1.2.~~ Applicability

The Vending Regulations are applicable to any person or entity desiring to conduct food, beverage or retail vending on a plaza area within the Town of Mountain Village.

~~2.3.~~ Review Process and Criteria for Decision

~~-Applicants desiring to vend in the Mountain Village and current vendors desiring to change their menu, services or operations must submit complete plaza vending applications and shall delivered such completed applications to the Plaza Vending Committee which must be received~~ by the seasonal deadline in order to be considered for approval. ~~Such applications must be submitted to Plaza Vending Committee (also referred to herein as the “Committee”). New vending Applications and major vending changes requested by an existing vendor received after the seasonal deadlines may be considered at the Committee’s discretion by written request from the applicant and explanation explaining for the basis for the late submission and must pay a late fee in addition to the application fee to be considered by the Plaza Vending Committee. Town staff requires a minimum of fourteen (14) days between receipt of a late application and scheduling of a Special Plaza Vending Committee meeting. Existing vendors requesting minor changes after the deadline and/or mid-season may make their request to Town staff. Town staff will review the request and determine if the change requires the review of the Plaza Vending Committee. If not, the minor change may be approved at the staff level.~~

Only complete applications with all required supplemental documentation, filed by such deadlines will be accepted.

Applicants must attend (virtually or in-person) and present their proposal and application to the Plaza Vending Committee at the scheduled seasonal review meeting.

The criteria for decision to be applied by the Plaza Vending Committee are as follows:

<u>CRITERIA</u>	<u>RATING</u> 1 = does not meet at all 5 = very strongly meets
<u>a. Offered food, goods, wares, merchandise, services and hours of operation are needed and/or desired by the community and/or its guests.</u>	<u>1 2 3 4 5</u>
<u>Committee comments:</u>	
<u>b. Food, goods, wares, merchandise and services are priced appropriately and reasonably (as compared to other MV options).</u>	<u>1 2 3 4 5</u>
<u>Committee comments:</u>	
<u>c. Food/services add diversity and options to the Village Center.</u>	<u>1 2 3 4 5</u>
<u>Committee comments:</u>	
<u>d. Cart design and space proposal meets the requirements of the Plaza Use Design Guidelines. The appearance, quality, safety and attractiveness of the vending operations and display apparatus are appropriate for the aesthetics of the Village Center.</u>	<u>1 2 3 4 5</u>
<u>Committee comments:</u>	
<u>e. Applicant is a returning vendor with a positive vending history (compliance and performance with Plaza License Agreement, Vending Regulations and Plaza Use Design Guidelines).</u>	<u>1 2 3 4 5</u>
<u>Committee comments:</u>	
<u>f. This application complies with the Vending Regulations Plaza Use Design Guidelines, and Plaza License Agreement.</u>	<u>1 2 3 4 5</u>
<u>Committee comments:</u>	

- ~~a. Offered food, goods, wares, merchandise, services and hours of operation;~~
- ~~b. Diversity and compatibility of offering with existing businesses;~~

- ~~e. Food and services offered by applicant do not directly compete with existing Mountain Village plaza businesses;~~
- ~~d. The number of summer and/or winter seasons the applicant has vended on public property in the town;~~
- ~~e. Appearance, quality, safety and attractiveness of the vending operation and display apparatus;~~
- ~~f. Compliance and performance with Vending Regulations and Plaza Use Design Standards;~~

It shall be the burden of the applicant to demonstrate that submittal material and the proposed vending business substantially comply with the Vending Regulations and the Plaza Use Design Standards; and

The Plaza Vending Committee will have sole and absolute discretion in granting a vending permit and will base its decision on the criteria and the Town's needs for vending at that time.

3.4. Appeals

- a. An applicant may appeal a decision or final action by the Plaza Vending Committee by filing a written request of appeal with the Mountain Village Economic Development Department within fourteen (14) days of the date of the decision or final action ~~is appealed~~ issued or taken. The request for appeal must state with particularity the grounds for appeal, including any alleged violation of these Regulations.
 - i. The Mayor, Mayor ProTem and Town Manager, or their respective designees, will conduct a preliminary review of such request for appeal within fourteen (14) days of filing of the appeal request and will determine whether grounds for an appeal exist. Upon completion of the preliminary review, the Mayor, Mayor ProTem and Town Manager, or their designees, shall dismiss the appeal in writing if they find that one or more of the following circumstances exist:
 1. The alleged violation, even if true, would not constitute a violation of these Regulations;
 2. The alleged violation was previously asserted in another appeal and is already being considered or was resolved;
 3. The alleged violation, even if true, is minor in nature and fails to justify the use of public resources to address;
 4. The appeal is time barred per section 4(a);
 5. The appeal is, on its face, frivolous, groundless, or brought for purposes of harassment; or
 6. The matter has or will become moot.
 - ii. In the event the appeal is not dismissed pursuant to section 4(a)(i), Town Council shall convene within a reasonable time and review the original application *de novo* and in accordance with these Regulations. Town Council's decision shall be final and binding upon the applicant.

4.5. General Standards

- a. **Location and Number.** The locations for approved vending applications shall be approved and assigned by the Plaza Vending Committee after considering ~~all of~~ all the applications. Assigned vendor locations may be reassigned by the Plaza Vending Committee on a seasonal or as-needed basis. The number of vending apparatuses and associated vending permits in plaza areas shall be as shown in Exhibit A

i. Storage of Vending Apparatuses. Town Staff shall assign storage locations for approved vending apparatuses on a space-available basis. Storage of vending apparatuses on Town property is not guaranteed. Vending apparatuses stored on Town property must be covered with a high-quality, neutral colored cart cover which shall be approved by the Economic Development Department. Storage of vending apparatuses on Town property shall be at applicant's sole risk and expense. The Town shall have no liability of any kind or nature for any damage sustained by or to such apparatuses while stored on Town property.

ii. Additional Vending Apparatuses. The Plaza Vending Committee may permit additional vending apparatuses on plaza areas, in its sole discretion, provided the Plaza Vending Committee determines that additional vending apparatuses are warranted and do not unreasonably impact the plaza areas.

- b. **Vending Season, Operating Days and Hours.** Vendors must apply for and have a plaza use license agreement for each season in which they desire to operate.

i. **Summer Season:** Vending apparatuses shall operate a minimum of four (4) days per week, four (4) hours per day no later than the first Market on the Plaza through Labor Day unless otherwise approved by the Vending Committee. Vending operations are required during the Market on the Plaza, on designated Wednesdays from 11am-4pm.

ii. **Winter Season:** Vending apparatuses shall operate a minimum of five (5) days per week, four (4) hours per day starting no later than December 15 and continuing until ski area closing unless otherwise approved by the Plaza Vending Committee.

1. Monthly rent will begin no later than December 1st for the winter season and no later than June 1st for the summer season and will not be prorated to a vendor's actual start date should vendor start after these dates.

a. For example, a vendor choosing to start vending November 25 will be prorated and begin paying rent on November 25. A vendor choosing to start vending December 15 will begin paying rent December 1.

2. Vending during Mountain Village special events will count toward minimum operation requirements.

- c. **Required Hours of Operation.** Hours of operation are as follows:
 - i. Vending hours shall be consistent throughout each season and shall meet the minimum requirements as set forth in section b above.
 - ii. Applicants shall submit a plan for the hours and days of operations to be approved by the Plaza Vending Committee as part of the approval process. Any change in the scheduled days and/or hours of operation for approved vending operations, other than minor, temporary changes due to weather and sick days, shall be approved by the Plaza Vending Committee prior to any such change in the schedule.
 - iii. **Special Events and After-Hours Vending.** The Town recognizes vendors may desire to operate outside of their normal operating hours during Town approved special events or town happenings (i.e. Club Red, music concerts, festivals weekend evenings). Such requests must be made in writing to the Town’s Economic Development department at least 48 hours prior to the rested after hours vending and will be approved on a case-by-case basis.
 - iii.iv. Limits on the Hours of Operation. The Town may set hours of operation and limitations on and similar measures for vending activities to ensure no adverse impacts to residents and guests.

- d. **Vending Apparatus Required.** Vending is only allowed from an approved vending apparatus or temporary structure. Vending apparatuses must meet all applicable size, space, health/safety, and design standards per the Plaza Use Design Standards, Lighting Regulations, and Sign Regulations as set forth in the Town of Mountain Village Community Development Code as well as any applicable public health codes and regulations.

- e. **Maximum Footprint.** All apparatus and related equipment must be contained in a 40 square foot area. All equipment must be necessary to the vending apparatus and vendor’s business and must be kept in an orderly, clean manner and may not constitute a potential safety hazards. Vending Apparatuses shall enclose or screen from view of the right of way and abutting property all accessory items not used by customers, including, but not limited to, tanks, barrels, or other accessory items. All said accessory items must be confined to the designated pad.

- f. **Vending Permit Required.** No person shall stage, operate or have present a vending apparatus within the town without a valid vending permit issued in accordance with these Vending Regulations.

- g. ~~Limits on the Hours of Operation. The Town may set hours of operation, limitations on and similar measures for vending activities to ensure no adverse impacts to residents and guests.~~ Reserved.

- h. Amplified Music Prohibition.** Amplified music for or along with vending is prohibited.
- i. Special Event Vending.** A vending permit is not required for vending that is approved as a special event pursuant to the municipal code and other provisions regulating Special Events.
- j. License Agreement Required.** The vending permittee shall enter into a license agreement with the Town for the vending operation in such form, manner and content as determined by the Town.
 - i.** A license agreement having a term of more than one (1) year shall be reviewed annually by the Vending Committee for compliance. In the event of non-compliance, the license agreement and vending permit may be terminated.
 - ii.** License agreements may be issued for a term of up to three (3) years at the discretion of the Vending Committee.
 - iii.** Notwithstanding any other provisions therein, a plaza vending license agreement shall provide for indemnification of the Town from any liability for damages resulting from the operation of the vending business, storage of vending apparatuses on Town property (as applicable) and for general liability insurance in such amounts as determined by the Town and naming the Town as an additional insured.
- k. Required Documentation.** Once the Vending application has been approved by the Town, but prior to the issuance of a vending permit, the applicant shall submit the following prior to the commencement of operations.
 - i.** Proof of insurance satisfactory to the Town;
 - ii.** Town business license;
 - iii.** Colorado sales tax license;
 - iv.** For prepared food, San Miguel Environmental Department permit;
 - v.** Cash security deposit with the Town in an amount determined by the Town for the purpose of guaranteeing the repair of any damage to plaza areas caused by the vending operation; and
 - vi.** Executed license agreement as required by this regulation.

5.6.Non-transferable. The vending permit shall not be transferable or assignable.

6.7.Non-interference. No person engaged in vending shall make any unnecessary sounds or noise, nor obstruct any pathway or other public property, nor disturb or impede other persons or otherwise create any public nuisance. The use of radios, stereos or any other audio systems in connection with any vending is prohibited.

7.8.Vehicles. Private vehicles for vending are prohibited in the plaza areas for any purpose unless the Town has issued a plaza area access permit pursuant to the Town of Mountain Village Municipal Code.

8.9. Area Maintenance. Vending permittee shall maintain both the permitted area, the immediate area surrounding the permitted area, the plaza area surface (washing down pavers, clean pavers, etc.) and the vending apparatus in a neat, clean and hazard-free condition and to the town's satisfaction.

9.10. Cleaning. Vending permittee shall clean the areas of the designated vending apparatus which are covered by the vending permit by removing debris, trash, sweeping and washing down the location as needed to the satisfaction of the Town. The cleaning shall be conducted as frequently as each day, if necessary, to prevent debris or trash from being blown or scattered around the plaza area.

10.11. Repair of Damage. Vending permittees shall, to the satisfaction of the Town, repair and/or replace any damage to any portion of the permitted vending apparatus area only to the extent any damages shall be caused by or in connection with permittee's use thereof, including without limitation the placement of personal property on the plaza area.

- a. All costs for such repair or replacement shall be the responsibility of the permittee.
- b. The Town, in its sole discretion, shall determine when the vending area needs repair or replacement due to the activities of permittee and/or its customers in the vending area.
- c. [It shall be the responsibility of the permittee to coordinate and manage any necessary third-party services or equipment needed to facilitate necessary repair or replacement of plaza area.](#)
- e.d. The Town may suspend a vending permit for failure to [timely organize and ensure the repair and/or replacement of damaged property](#), pay for damage or the payment of a required damage deposit.

11.12. Snow Removal. The vending permittee shall move the vending apparatus per request of the Town for snow removal and/or plaza maintenance when necessary.

12.13. Recycling and Trash. Trash removal fees for public trash generated by the vending permittee are included in the monthly permit fee as established in the fee resolution for Vending Carts. All back-of-house trash must be removed daily by the permittee.

13.14. Public Seating Areas. The vending permittee must make every reasonable effort to ensure their customers utilize the public seating area and do not take food items into the seating areas of neighboring restaurants.

14.15. Monthly Vending Fees. The vending permittee shall remit the monthly vending fee as set forth in the [Town's](#) fee resolution, with such fee to be due and payable on the first of each month. Vending fees shall be prorated for partial months in each season

(partial months based on start dates outlined in 4.b.i and ii and will not be prorated based on when a vendor chooses to start the season).

15.16. Plaza Location. The Town has the right to relocate the site of the apparatuses of plaza vending permit holders within all the designated plaza areas. The vending permit administrator shall notify the vending permittee three (3) days prior to any vending apparatus relocation.

- a. If a vendor wishes to move locations during high traffic events, a request must be submitted to the Plaza Vending Committee Chair designated staff member seven (7) days prior to the desired date of location change.

16.17. No Encroachment. Vending permittee shall have the obligation to prevent encroachment of the vending apparatus or any related vending equipment or permittee property onto areas of the plaza outside the designated vending apparatus location except for any approved storage location shown in the required license agreement.

17.18. Abandon/Surrender. A permittee without written authorization from the Town acknowledging extenuating circumstances, who fails to conduct vending operations during the required hours of operation for a period of two (2) consecutive weeks during the designated season, will be considered to have surrendered and abandoned his or her vending permit. The Town shall have the right to reassign that space to another applicant. The Town has the right to refuse to authorize an absence. The Town shall send written notice of the surrender and abandonment of the permit to the permittee.

18.19. Utility Fees. The Town may require a plaza vending operator to pay utility fees if the vending apparatus operation uses electric utilities. The use of generators is prohibited.

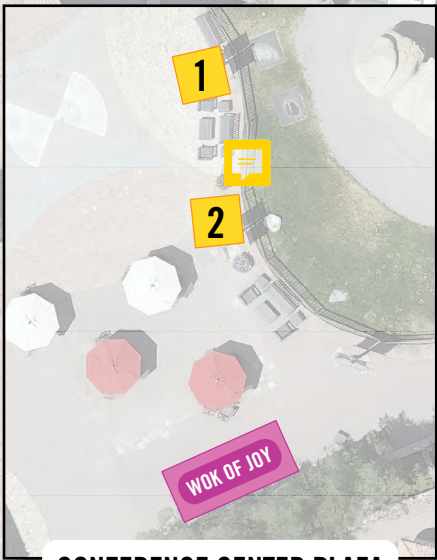
19.20. Revocation and Suspension.

- a. Any vending permit issued hereunder may be revoked or suspended by the Plaza Vending Committee for a violation or breach of a term or condition of the vending permit, ~~or~~ license agreement, or these Regulations, including, but not limited to:
 - i. Operation of a vending apparatus in a location other than that approved or outside the permitted area;
 - ii. Failure to pay monthly plaza vending fee;
 - iii. Failure to clean areas of the designated vending apparatus location to town satisfaction;
 - iv. Failure to remain in operation during the minimum number of business hours or days;
 - v. Failure to maintain the design of a vending apparatus or vending apparatus signs in the condition as represented in the development application;

- vi. Failure to pay for the repair and/or replacement of any damage to any portion of the permitted vending apparatus area caused by or in connection with permittee's use thereof;
 - vii. Changing the use of the vending apparatus that does not comply with the approved application;
 - viii. Failure to remove vending apparatus from designated location as required by the vending permit;
 - ix. Permittee violates any provision of this Plaza Vending Rules and Regulations or other law or regulation of the Town.;
 - x. The permittee obtained the vending permit by fraud or misrepresentation; and/or
 - xi. The permittee is convicted of an offense that would create a danger to the public health, safety and welfare following issuance of the vending permit.
- b. No permittee whose vending permit has been revoked may receive a refund of any part of the permit fee paid.
- c. Upon revocation or expiration of any vending permit, the permittee shall remove all structures or improvements from the permit area and storage area and restore the area to its condition existing prior to issuance of the permit within forty-eight (48) hours of revocation or expiration of permit.
- d. If the vending permit is revoked, the permittee may not apply for the same type of permit for one (1) year after the effective date of the revocation.

APPROVED BY THE MOUNTAIN VILLAGE PLAZA VENDING PANEL AT THE
~~OCTOBER 4, 2023~~DATE PLAZA VENDING MEETING.

APPROVED AND ADOPTED BY THE MOUNTAIN VILLAGE TOWN COUNCIL AT THE
~~MARCH 21, 2024~~DATE TOWN COUNCIL MEETING.



STORAGE LOCATIONS



5

3

4

- 1 OPEN
- 2 OPEN
- 3 MR. CHURRO
- 4 LA COLUMBIANA
- 5 LATIN CREATIONS

SUMMER PLAZA VENDING

MOUNTAIN VILLAGE



CONFERENCE CENTER PLAZA

STORAGE LOCATIONS



6



5

3

4

7



- 1 OPEN
- 2 OPEN
- 3 PLACE DE CREPES
- 4 LA COLUMBIANA
- 5 LATIN CREATIONS 
- 6 CHEEZY LLC 
- 7 WAX GURU 

WINTER PLAZA VENDING

MOUNTAIN VILLAGE