

1 anticipated effect on public safety and operation of the affected city property or
2 operation.

3 (4) The city ~~clerk and the chief building official~~ shall only issue
4 permits upon finding that:

5 (a) The permit will not generate any of the conditions listed at
6 subsections 13.37.030.B(2)(a) through (g); and

7 (b) The applicant *for a special event* has provided reasonable notice to
8 the occupants of property abutting the city property upon which the ~~permitted~~
9 ~~activity special event~~ will occur of the nature, time and date of the ~~proposed~~
10 ~~activity special event~~;

11 (c) The application has not been disapproved by an executive director
12 or their designee under section 13.37.030.B(3).

13 (5) The city ~~clerk or chief building official~~ may impose reasonable
14 terms, conditions and limitations, reflected in a single permit document or in a
15 supplemental written agreement, to ensure reasonable protection of the city's
16 interests, including, but not limited to:

17 (a) Adequate public access;

18 (b) Unobstructed passage;

19 (c) Public health, safety and welfare;

20 (d) Insurance and indemnity provisions sufficient to protect the city
21 from liability claims;

22 (e) Adequate maintenance of improvements placed on city property;

23 (f) Compliance with the city Code and Charter;

24 (g) An adequate traffic control plan.

25 . . .

26 D. To foster and maintain the competitive viability of merchants
27 having fixed costs of doing business, no ambulatory vendor ~~or mobile vending~~
28 ~~cart~~ permit holder under this chapter shall sell or offer for sale any goods or
29 services within a distance of 250 feet from the location of any portion of a
30 business facility not situated in the public right-of-way offering similar goods and
31 services measured from the nearest portion of the business facility, using a route

1 of direct pedestrian access.

2 E. For permits that contain no supplemental written agreement, the
3 ~~city clerk and the chief building official~~ shall issue the permit or mail a written
4 statement of denial stating the reason for such denial to the address of the
5 applicant within 15 business days after the submission of a complete application
6 and prepayment of requisite fees. For permits that contain supplemental written
7 agreements, the ~~city clerk and chief building official~~ shall either issue the permit
8 or mail a written statement of denial stating the reason for such denial to the
9 address of the applicant within a reasonable time after receiving a complete
10 application and prepayment of the requisite fees.

11 Section 4

12 The Council amends section 13.37.090 of the Longmont Municipal Code by adding
13 italicized material and deleting stricken material, to read as follows:

14 13.37 .090 —~~Mobile vending carts~~ *Pushcart* conditions

15 It is unlawful for any person to use, conduct sales from, store or place a ~~mobile~~
16 ~~vending cart~~ *pushcart* on any public property without first obtaining a permit
17 from the city as set forth in ~~this chapter~~ *section 15.04.040 of this code.*, ~~subject,~~
18 ~~however,~~ to the following conditions:

19 A. —~~Mobile vending carts shall be restricted to those locations and~~
20 ~~movements designated by the city to ensure against obstructions or hazards to~~
21 ~~pedestrians and traffic.~~

22 B. —~~Applicants for mobile vending cart permits from which food or~~
23 ~~beverage service is provided shall obtain concept approval from the Boulder or~~
24 ~~Weld County health department, and submit written verification from the~~
25 ~~department in conjunction with the permit application.~~

26 C. —~~After an evaluation of any location or area, the police and/or fire~~
27 ~~chief or their designee may establish a maximum numerical designation of mobile~~
28 ~~vending cart permits which may be issued per such location or area in order to~~
29 ~~maintain adequate public access, passage and safety. In such event permits shall~~
30 ~~be issued on a priority of time of application basis.~~

31 D. —~~The applicant shall submit with the application pictures or~~

1 drawings displaying the size, shape, height, and color of the mobile vending cart
2 for review by the city for compatibility with the area of proposed use for the
3 benefit of the public and enhancement of the ambience of the site of use.

4 E. ~~Mobile vending cart permittees shall be responsible to provide and~~
5 ~~maintain trash receptacles, and shall maintain the area authorized for use in a safe,~~
6 ~~clean and attractive condition.~~

7 F. ~~Mobile vending carts shall be removed from the authorized site of~~
8 ~~use at the end of each business day and during all other periods of nonuse.~~

9 Section 5

10 The Council amends section 13.37.140 of the Longmont Municipal Code by adding
11 italicized material and deleting stricken material, to read as follows:

12 13.37.140 - Fees.

13 In addition to other fees required by this Code, each applicant shall pay the
14 following permit fees upon application and annual renewal, if applicable:

15 Permit use fee:

16 1. Special event: \$50.00 per event, unless the event is held on land
17 south of Union Reservoir, commonly referred to as the Koester parcel or the
18 Pietzrak parcel. Except that no fee shall be charged:

19 . . .

20 ~~3. Mobile vending cart: \$100.00 annually per cart~~

21 ~~43.~~ Ambulatory vendor: \$50.00 annually

22 ~~54.~~ Public furnishing: \$50.00 one-time fee

23 ~~65.~~ Fence, awning, canopy or sign: \$50.00 one-time fee

24 ~~76.~~ Special event on the Koester parcel:

25 a. For first-time events ranging in size from 7,500 to 15,000
26 participants: \$3,250.00; for returning events: \$2,500.00

27 b. For first-time events ranging in size from 15,001 to 25,000
28 participants: \$5,000.00; for returning events: \$4,250.00

29 c. For first-time events with over 25,000 participants; \$6,250.00; for
30 returning events: \$5,500.00

31 ~~87.~~ Special event on the Pietzrak parcel: \$1,500.00

1 98. Daily fee for closing Union Reservoir to the public is the average
2 weekend daily revenue at the reservoir from the prior year; for 2011: \$4,500.00
3 per day.

4 Section 6

5 The Council amends section 13.37.150 of the Longmont Municipal Code by adding
6 italicized material and deleting stricken material, to read as follows:

7 13.37.150 – Security deposit - Waiver and reduction

8 A. In addition to the payment of permit fees, an applicant for a ~~mobile~~
9 ~~vending cart permit under section 13.37.090 or an~~ ambulatory vendor permit
10 under section 13.37.100 shall submit a deposit of \$150.00 to secure performance
11 of the permittees' obligation to maintain the affected public area in a safe, clean
12 and orderly condition. If the permittee fails to comply with the cleanup
13 conditions, the city shall retain its costs and expenses incurred to secure
14 compliance, plus an administrative fee of 20 percent. The city shall refund the
15 security deposit, or balance thereof, if any, at the expiration of the permit term or
16 upon relinquishment of the permit and discontinuance of activity, whichever
17 event first occurs. If the city incurs costs during the term of the permit and
18 activity thereunder continues, the permit holder shall, upon notice of such costs,
19 replenish the security deposit to the full amount required by this section.

20 B. If the city ~~clerk~~ determines that prior uses of public property by an
21 applicant have resulted in destruction or misuse of facilities or that an applicant
22 has not complied with all permit requirements and regulations, then, in addition to
23 the payment of permit fees, the applicant for any permit under this chapter
24 requiring maintenance or restoration of the safe, clean and orderly condition of
25 the affected public place shall submit a deposit in an amount the clerk determines
26 reasonably necessary to secure performance. Paragraph A shall govern
27 application, retention, refund and replenishment of the deposit.

28 Section 7

29 The Council amends section 13.37.160 of the Longmont Municipal Code by adding
30 italicized material and deleting stricken material, to read as follows:

31 13.37.160. - Revocation of permit—Notice—Appeal.

1 Retail sales by ambulatory vendors ~~or through the use of mobile vending carts~~ on
2 public property or rights-of-way shall comply with all applicable requirements
3 stated in chapter 13.37 of the Longmont Municipal Code for use of public places.
4 Vendors ~~and carts~~ on private property are restricted to one vendor ~~or cart~~. Mobile
5 vending carts ~~shall be moveable by one person and may not exceed six feet in~~
6 length, ~~not including a trailer hitch~~.

7 . . .

8 **Section 9**

9 The Council amends section 15.04.040, of the Longmont Municipal Code by repealing
10 and reenacting to read as follows:

11 **15.04.040 – Temporary Uses.**

12 A. The following temporary uses shall obtain a temporary use permit
13 under this code:

- 14 1. Temporary Event
- 15 2. Seasonal and Holiday Sales
- 16 3. Real Estate Sales Office
- 17 4. Retail Mobile Food Vending
- 18 5. Other Temporary Uses

19 See Chapter 13.04 for Work in Right-of-Way and Chapter 13.37 for Use of Public
20 Places.

21 B. Exempt Activities: The following events or activities are exempt
22 from the requirements of this section, but remain subject to all other applicable
23 provisions of this development code and the Longmont municipal code, including
24 those governing noise control.

25 1. Temporary events or activities occurring within, or upon the
26 grounds of, a private residence or upon the common areas of a multifamily
27 residential development.

28 2. Natural disasters and emergencies. Temporary uses and structures
29 needed as the result of a natural disaster or other health and safety emergencies
30 during the period of the emergency.

31 C. Definitions

1 Mobile Retail Food Establishment: Retail food establishment that reports
2 to and operates from a commissary and is readily moveable, is a motorized
3 wheeled vehicle, or a towed wheeled vehicle designed and equipped to serve
4 food.

5 Pushcart: A non-self propelled vehicle limited to serving commissary
6 prepared or prepackaged food and non-potentially hazardous food unless the
7 equipment is commercially designed and approved to handle food preparation and
8 service.

9 Retail Mobile Food Vending: Sales of commissary prepared or
10 prepackaged food from a mobile retail food establishment or pushcart.

11 Seasonal and Holiday Sales: Sales of seasonal items such as Christmas
12 trees, farm produce and fireworks otherwise allowed by the municipal code, but
13 not including retail sales of household goods, such as furniture, carpets, art
14 work/paintings, or similar items.

15 Temporary Event: Temporary commercial or festive activity or promotion
16 at a specific location, which takes place typically no more than once per year
17 including, but not limited to, carnivals, circuses, and festivals.

18 D. General standards applicable to all temporary uses.

19 1. Traffic. The proposed site must be adequately served by streets or
20 drives having sufficient width and improvements to accommodate the type and
21 quantity of traffic that such temporary use will or could reasonably generate.

22 2. Parking. Adequate parking must be available, either on-site or at
23 alternate locations, to accommodate vehicular traffic reasonably expected to be
24 generated by such use.

25 3. Signs. Permanent signs are prohibited. All signs shall conform to
26 the provisions for temporary signs in chapter 15.06, and shall be removed when
27 the activity ends.

28 4. On-site lighting. All on-site lighting shall conform to the outdoor
29 lighting provisions of section 15.05.140.

30 5. Trash. The owner of a temporary use is responsible for the storage
31 and removal of all trash, refuse and debris on the site. All trash storage areas shall

1 be screened from view from adjacent rights-of-way, and the site must be
2 maintained in a clean and safe manner.

3 6. Noise. All temporary uses shall meet day-time noise standards as
4 defined in section 10.20.100 unless otherwise exempted.

5 7. Review criteria. All temporary uses shall meet the requirements of
6 section 15.02.090.G., "Temporary Uses."

7 E. Specific use standards.

8 1. Temporary events.

9 a. Applicability. These provisions apply to all temporary events held
10 on private property within the City of Longmont.

11 b. Referral authorized. A completed temporary use application shall
12 be referred to other appropriate city departments or agencies.

13 c. Grounds for denial of permit. An application for a temporary
14 event permit may be denied upon the Development Services Manager's written
15 determination that one or more of the following exists:

16 i. The application contains intentionally false or materially
17 misleading information.

18 ii. The proposed event creates an unreasonable risk of
19 significant:

20 (A) Damage to public or private property beyond normal wear
21 and tear;

22 (B) Injury to persons;

23 (C) Public or private disturbances or nuisances;

24 (D) Unsafe impediments or distractions to, or congestion of,
25 vehicular or pedestrian travel;

26 (E) Additional police, fire, trash removal, maintenance, or
27 other public services demands; or

28 (F) Other adverse effects upon the public health, safety, or
29 welfare;

30 iii. The proposed special event is of such a nature, size, or
31 duration that the particular location requested cannot reasonably accommodate the

1 event; or

2 iv. The time and location requested for the proposed special
3 event has already been permitted or reserved for other activities.

4 d. Term of permit. An event authorized under this subsection shall be
5 limited to a maximum duration of 14 days, which may be non-consecutive, unless
6 otherwise specifically authorized by the development services manager.

7 2. Temporary seasonal and holiday sales.

8 a. Locations permitted. Seasonal and holiday sales activities shall be
9 permitted in all non-residential zoning districts, including PUD-MU.

10 b. Term of permit. The term of the temporary use permit shall not
11 exceed 60 days, which may be non-consecutive, unless otherwise specifically
12 authorized by the development services manager, or restricted by another
13 provision of the municipal code.

14 c. Standards. Permitted sales activities may occur within required
15 zoning district setbacks provided the following conditions are satisfied:

16 i. No activity or display shall encroach more than 50 percent
17 into a required setback;

18 ii. No activity or display shall be located within 25 feet of an
19 abutting residential lot or use;

20 iii. No activity, display, or related equipment shall be located
21 within a required intersection or driveway sight triangle; and

22 iv. No activity shall be within a required landscape buffer, nor
23 occupy more than ten percent of a required off-street parking area.

24 3. Real estate sales office and model homes.

25 a. Where allowed. Temporary real estate sales offices, including
26 model or show homes, shall be permitted in all zoning districts when incidental to
27 a new residential development.

28 b. Term of permit. The temporary use permit shall automatically
29 expire 30 days after completion of construction of the last housing unit or one
30 year after issuance, whichever occurs first. Permits may be renewed in 1 year
31 increments upon written request and a finding that the use is in compliance with

1 the original permit.

2 c. Commencement of use. A real estate sales office or model home
3 shall not be moved onto or erected on the development site until construction
4 acceptance for the development has been granted, unless the public improvement
5 agreement stipulates another date.

6 d. Activities allowed.

7 i. Temporary real estate sales offices and model homes shall
8 be used only as temporary field offices for new home sales or leasing and for
9 storage of incidental supplies, and shall not be used as any type of dwelling.

10 ii. Use of the temporary real estate sales office or model home
11 for sales of residential sites or projects located off-site is prohibited.

12 iv. A model home shall not be open for public viewing or
13 business before 8:00 a.m. or later than 8:00 p.m.

14 e. Building setbacks. All temporary real estate sales offices and
15 model homes shall comply with the building setbacks in the zoning district in
16 which the building is located.

17 f. Off-street parking. An accessible paved parking area for visitors
18 shall be provided if the development services manager determines on-street
19 parking is not sufficient.

20 g. Completion of use. Upon termination of the permit, all temporary
21 real estate sales offices shall be removed, and all model/show homes closed for
22 viewing, and the site of the temporary office use shall be returned to its original
23 condition.

24 4. Retail Mobile Food Vending.

25 a. Locations Permitted. Mobile retail food establishments and
26 pushcarts are permitted in all non-residential zoning districts subject to the
27 following separation requirements:

28 i. They shall be located at least 250 feet from any restaurant.

29 ii. They are not permitted in parks with permanent concession
30 facilities when park concessions are in operation.

31 iii. Exception: Zoning and separation requirements do not

1 apply to special event permits issued under section 13.37 of the municipal code.

2 c. Criteria for operation.

3 i. A mobile retail food vending permit is required and must
4 be kept with the mobile retail food or pushcart operators and presented to
5 authorized city officials upon request.

6 ii. Operators are responsible for obtaining consent of property
7 owners to operate on private property.

8 iv. Operators are responsible for maintaining trash receptacles
9 and maintaining all areas used for food vending in a safe and clean condition, and
10 must dispose of all waste in accordance with Health Department regulations.

11 v. Mobile retail food establishments and pushcarts must be
12 removed from any site at the end of each business day (unless otherwise
13 approved).

14 vi. Operators must obey all parking and traffic laws.

15 vii. Mobile retail food establishments and pushcarts must not
16 obstruct pedestrian or bicycle access or passage, or parking lot circulation nor
17 impede traffic flow.

18 viii. Structures, canopies, tables or chairs must not be set up
19 around the mobile retail food establishment or pushcart.

20 ix. If operated on public property, operators must have liability
21 insurance in amounts of \$150,000 per person and \$600,000 per occurrence, as
22 approved by the city risk manager, and must provide a certificate of insurance
23 naming the city of Longmont as an additional insured. Applicant can petition city
24 manager for full or partial waiver of this insurance requirement.

25 d. Term of the permit. All permits shall be valid for one year from
26 the date of issuance.

27 5. Other temporary uses. Subject to this section, the development
28 services manager may approve other temporary uses and activities if it is
29 determined that such uses would not jeopardize the health, safety or general
30 welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity
31 of, the proposed location of the activity.

1 Section 10

2 The Council amends section 15.10.020, Definitions, of the Longmont Municipal Code by
 3 adding italicized material and deleting stricken material, to read as follows:

4 ...
 5 *Restaurant* means an establishment whose principal business is to serve food and
 6 beverages in a ready-to-consume state for consumption either within the
 7 restaurant building, ~~within a motor vehicle parked on the premises,~~ off the
 8 premises as carry-out orders, or in an outdoor seating area on the premises.

9 ...

10 Section 11

11 The Council amends Table 15.04-A, Table of Principal Uses, of the Longmont Municipal
 12 Code by adding italicized material and deleting stricken material, to read as follows:

13 Table 15.04-A
 14 Principal Uses

Use Classification and Specific Principal Uses	Zoning District																Additional Regulations (Apply in All Districts Unless Otherwise Stated)		
	E1	E2	R1	R2	R3	MH	RLE	RMD	MD-O	C	CR	CBD	BLI	MI	GI	P		A	MU
...																			
Retail sales— Ambulatory vendor											L	L	L	L	L	L	L	P	25
Retail sales— Mobile vendor cart											L	L	L	L	L	L	L	P	25
Retail sales— Outdoor											C		C			C			22, 23, 24; Not allowed in MU district overlay
...																			

15
 16 Section 12

17 To the extent only that they conflict with this ordinance, the Council repeals any

1 conflicting ordinances or parts of ordinances. The provisions of this ordinance are severable, and
2 invalidity of any part shall not affect the validity or effectiveness of the rest of this ordinance.

3
4 Introduced this 11th day of October, 2011.

5 Passed and adopted this 8th day of November, 2011.

6
7 *Jennis L Coombs*
8 MAYOR

9
10 ATTEST:

11
12 *Valeria H. Skato*
13 CITY CLERK

14
15
16 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT
17 7:00 P.M. ON THE 25th DAY OF October, 2011, IN THE LONGMONT
18 COUNCIL CHAMBERS.

19 APPROVED AS TO FORM:

20
21 *James W. Proulx* 11/9/11
22 DEPUTY CITY ATTORNEY DATE

23
24
25 *M. McQueen* 11/9/11
26 PROOFREAD DATE

27
28
29 APPROVED AS TO FORM AND SUBSTANCE:

30
31 *GL* 11/9/11
32 ORIGINATING DEPARTMENT DATE

33
34
35 CA file: 8601