



PLANNING

TEMPORARY VENDING OPERATIONS

Planning & Community Development Department

Planning Division

550 Landa Street, New Braunfels, TX 78130

(830) 221-4050

planning@nbtexas.org

If you wish to vend from private improved property, please contact the owner of the property and complete and return this page and the following page. Once all information is submitted and verified, a temporary vending permit will be issued.

FEE: \$77.25

(\$75 application fee + \$2.25 technology fee(3%))

The application must be submitted to the Planning Division no less than 5 business days prior to the requested start date.

Any application that is missing information will be considered incomplete and will not be processed.

1. Vendor/Applicant

Name: _____

Vendor Business Name (if applicable): _____

Permanent Street Address: _____

City/State/ZIP: _____

Telephone: _____ **Email:** _____

2. Property Owner

Business Name (if applicable): _____

Owner/Legal Representative: _____

Title of Legal Representative (for business): _____

Telephone: _____ **Email:** _____

3. Location/Address Where Vending Will Occur: _____

4. Existing Use of Vending Location: _____

5. Is the intended location in a floodplain/floodway?: **yes** **no**

**If you are unsure about #6, please contact the Planning Division at (830) 221-4050 to verify.*

6. Item(s) to Vend/Sell: _____

7. Date of Operation: (cannot exceed 8 months for food vendors & 6 months for all others)

Starting Date: _____ **Ending Date:** _____

8. Hours of Operation:

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Start							
End							

SUBMITTAL CHECKLIST:

STAFF:
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

APPLICANT:

Completed application

Please note: The application must be submitted no less than 5 business days prior to the requested start date.

Authorization for property owner's legal representative (if needed)

Sales Tax Certificate

Fee (\$77.25)

Site Plan showing the following:

Please note: The drawing does not need to be to scale, but distances and dimensions must be correct. Inaccurate or non-legible site plans can result in a delay with the application review.

Lot lines

Streets (labeled)

Location of buildings and all structures on the property

Fences

Location and number of parking spaces

Please note: Required parking allocated for the patronage of the primary, permanent host business shall not be utilized for set up or parking of the Temporary Vending Operation. Additional parking spaces must be available from the primary business.

Location where vendor will be located

Please note: All vehicles (motorized or non-motorized), trailers, tents, structures, etc. associated with the Temporary Vending Operation, including those from which vending occurs, must be located within the parking lot.

The application will be considered incomplete if all items on the Submittal Checklist are not submitted.

Vendor – Please initial beside each paragraph to acknowledge the following:

_____ To the best of my knowledge, the property and all improvements thereon are in compliance with all applicable codes and ordinances of the city.

_____ I accept any and all legal responsibilities that I may incur as a result of granting this permission, and both the vendor and myself and all our heirs, executors, and assigns agree to hold the city of New Braunfels harmless from any property damage, personal injury, or illness that may result from this agreement.

_____ Both the owner and the vendor agree to abide by the contents of this agreement and all applicable city codes and ordinances. The vendor will provide a copy of a valid state of Texas sales tax certificate issued to the vendor for taxable items.

Vendor Signature

Date

Vendor Name (PLEASE PRINT)

Property Owner/Legal Representative – Please initial beside each paragraph to acknowledge the following:

_____ To the best of my knowledge, the property and all improvements thereon are in compliance with all applicable codes and ordinances of the city.

_____ I accept any and all legal responsibilities that I may incur as a result of granting this permission, and both the vendor and myself and all our heirs, executors, and assigns agree to hold the city of New Braunfels harmless from any property damage, personal injury, or illness that may result from this agreement.

_____ Both the owner and the vendor agree to abide by the contents of this agreement and all applicable city codes and ordinances. The vendor will provide a copy of a valid state of Texas sales tax certificate issued to the vendor for taxable items.

Property Owner/Legal Representative Signature

Date

Property Owner/Legal Representative & Title (PLEASE PRINT)

FOR OFFICE USE ONLY

CASE NO.: _____

Date completed application received: _____

Received by: _____

Date of Approval/Denial: _____

By: _____

Fee: \$ _____ Check No: _____

Receipt No: _____

(Intentionally Blank)

KEEP THIS SECTION FOR YOUR RECORDS

The following policies are in effect for Temporary Vending Operations in the city of New Braunfels, per Section 5.23, Chapter 144, Zoning, New Braunfels Code of Ordinances:

5.23 Temporary Vending Operations

- 1) **Applicability.** The following rules for Temporary Vending Operations do not alleviate such operations or uses from also adhering to other applicable municipal or state rules and regulations.

On improved property, a Temporary Vending Operation may operate as long as a permit is issued. Temporary Vending Operations are permitted in all non-residential districts. Anyone wishing to peddle, solicit, or vend from private property may do so as long as all applicable codes and ordinances of the City are met, and a Temporary Vending Operation Permit is issued by the City. There can be no such activity on vacant, unimproved property.

No permanent or temporary foundation may be placed or constructed for a Temporary Vending Operation. All structures (including but not limited to booths, vehicles, trailers and any ancillary equipment and furnishings such as generators, tables and decks) employed for Temporary Vending Operations must be removed from the subject property at the end of the permitted period.

- 2) **Permit and Fee.** An application processing fee per Appendix D of the New Braunfels Code of Ordinances is required for each Temporary Vending Operation permit application. No fee is required for applications with non-profit status. Proof of tax-exemption from the IRS is required.

Temporary Vending Operation Permits are not transferable. A permit at any location is valid for one Temporary Vending Operation regardless of any sale, lease, name change or any ownership transfer of the Temporary Vending Operation.

- 3) **Merchandise.** All merchandise offered for sale must be consistent with the Zoning Ordinance.
- 4) **Temporary Vending Operation.** For purposes of this ordinance, a Temporary Vending Operation shall be considered any individual, business, company, firm, association or organization conducting business pursuant to this ordinance.
- 5) **Time.** The permit is valid for a period not to exceed:
- 8 months in the same location for food vendors;
 - 6 months in the same location for all other vendors.

After the permit has expired, the Temporary Vending Operation shall leave the property, parcel, lot or address where the vending has occurred for a minimum of 30 consecutive days after which time the Temporary Vending Operation may return to the same location. Temporary Vending Operations exceeding the term of the permit shall void the temporary status; such operations shall comply with all permanent structure regulations.

- 6) **Parking.**
- (a) Required parking allocated for the patronage of the primary, permanent host business shall not be utilized for set up or parking of the Temporary Vending Operation. Additional parking spaces must be available from the primary business.
 - (b) All vehicles (motorized or non-motorized), trailers, tents, structures, etc. associated with the Temporary Vending Operation, including those from which vending occurs, must be located within the parking lot.

- (c) One space is required per Temporary Vending Operation except within the Area Exempt from Required Parking Spaces (as shown in Figure 3, Sec. 5.1 Parking, Loading, Stacking and Vehicular Circulation).
- (d) No seating may be provided for Temporary Vending Operations unless the property has parking spaces in excess of the minimum requirement. In such cases, 1 parking space shall be required per 4 seats for patron use.
- 7) **Location.** All vending activities must occur on private property. No activity, parking, or signage may be located on public property or street right-of-way or within 25 feet of a street intersection, as measured at the right-of-way line, as to create a visual distraction. Anyone wishing to sell, take orders for immediate or future delivery, collect money or property, or attempt to do any of the foregoing, in exchange for a good or service, is prohibited from peddling, soliciting, or vending or advertising from any public street or park in the City of New Braunfels. This provision does not apply to mobile catering/mobile vending as regulated in the Code of Ordinances.
- 8) **Refuse.** A sufficient quantity of garbage receptacles shall be provided and maintained so that permitted sites are kept clean of all debris, trash, and litter at all times.
- 9) **Noises.** No Temporary Vending Operation shall use a sound device, including a bell, horn, voice (amplified or not) to attract attention.
- 10) **Codes and Ordinances.** The existing property and uses must be and remain in compliance with all applicable codes and ordinances. The accessory use of the Temporary Vending Operation will be in compliance with all applicable codes and ordinances (e.g. Temporary Vending Operation will meet zoning requirements, fire codes, health codes, etc.). Building setbacks do not apply to Temporary Vending Operations except that sight distance triangles shall be maintained.
- 11) **Restroom Facilities.** Restrooms shall be provided in compliance with all applicable, current health codes. No portable restrooms may be used except as permitted under subsection 5.23.18 (*Special Events*).
- 12) **Utilities.** No permanent water, sewer, electric, fuel, or phone facilities may be connected to the vending operation. Connections must have a quick disconnect. Any use of extension cords must be no longer than a maximum of 50 feet, including multiple cords. A maximum of 2 cords may be utilized. Extension cords crossing areas of traffic (vehicular, pedestrian, etc.) must be encased in a cable protector rated for the specific traffic. Documentation of this rating must be provided.
- 13) **Maximum Number of Vendors.** An existing non-residential property may have a maximum number of two permitted Temporary Vending Operations at any one time.
- 14) **Temporary Food Vendor Operations.** Temporary establishments that provide food services and must be registered and inspected by the City Health Division. For purposes of this section, Food Vendor shall be defined as "Restaurant" under Chapter 62, Section 81, Definitions.
- 15) **Storage of Inventory.** All storage must be within a building or container.
- 16) **Signage.** All temporary vending operations must comply with Chapter 106, Signs. Sandwich boards, banners attached to a building or vending structure, and pennants are allowed. No banners may be utilized which stand independently utilizing stakes, t-posts, or otherwise attached to the ground.
- 17) **Provision of Recreational Activities.** No recreational activities may be permitted through the Temporary Vending Operation ordinance.
- 18) **Application Procedures.** An application shall be submitted to the Planning Division for review and decision. All Temporary Vending Operations providing food or drink services shall also submit an application to the Health Division.

The Planning Director shall have the authority to make decisions concerning the site plan and other information provided during the consideration of a vendor permit. The Planning Director will approve or deny the permit application.

19) Application Elements.

- (a) A Temporary Vending Operation shall provide with the application a letter and drawing from the owner of the property stating:
 - (1) the name and home address of the Temporary Vending Operation;
 - (2) the purpose of the Temporary Vending Operation (for example. "sell watermelons");
 - (3) the dates and times of the Temporary Vending Operation;
 - (4) a site plat showing the location on the property where the Temporary Vending Operation will take place, along with any external structures (decks, stairs, etc.);
 - (5) miscellaneous information necessary to determine the compliance of the property, improvements, and vendor operations with City applicable codes and ordinances.
- (b) The Temporary Vending Operation shall provide with the application a copy of a State of Texas sales tax certificate issued for the proposed Temporary Vending Operation if the vended items are taxable.
- (c) The permit must be visibly posted on all Temporary Vending Operations with the expiration date.

20) Penalties.

- (a) Permits may be revoked by the Director of Planning, Chief of Police, or other City authority for any of the following causes:
 - (1) fraud, misrepresentation, or a false statement contained in the application for the permit;
 - (2) fraud, misrepresentation, or a false statement made in the course of conducting business;
 - (3) any violation of any City code or ordinance that has not been brought into compliance within 24 hours of notification.
 - (4) conviction of any crime or misdemeanor involving moral turpitude;
 - (5) conducting the business in an unlawful manner so as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.
- (b) If a Temporary Vending Operation has violated this or any other applicable part of the City's municipal code while conducting business with a permit issued under this section, the business owner shall be penalized as follows:
 - (1) the first offense shall result in a warning and the operation shall bring the Temporary Vending Operation into compliance within 24 hours or the permit shall be revoked. *\$500.00 for each offense per day.*
 - (2) the second offense shall result in the operation having the permit revoked immediately and the Temporary Vending Operation shall be prohibited from obtaining a permit under this section for one year from the date of the offense. *\$1,000.00 for each offense per day.*

- (3) the third offense shall result in the operation having the permit revoked immediately and the Temporary Vending Operation shall be prohibited from obtaining a permit under this section indefinitely. *\$2,000.00 for each offense per day.*
- (c) If a host business has violated this or any other applicable part of the City's municipal code while allowing Temporary Vending Operations to be conducted with or without a permit issued under this section, the business owner shall be penalized as follows:
- (1) the first offense shall result in a warning and the host shall correct the violation within 24 hours or the permit shall be revoked. *\$500.00 for each offense per day.*
 - (2) the second offense shall result in the operation having the permits of all the host's Temporary Vending Operations revoked immediately and the host shall be prohibited from hosting Temporary Vending Operations for one year from the date of the offense. *\$1,000.00 for each offense per day.*
 - (3) the third offense shall result in the operation having the permits of all the host's Temporary Vending Operations revoked immediately and the host shall be prohibited from hosting Temporary Vending Operations indefinitely. *\$2,000.00 for each offense per day.*

21) Appeal Procedures.

- (a) Enforcement of this ordinance may be appealed to the City Council.
- (b) Appeal Actions.
 - (1) All appeal actions for a site plan application denied by the Planning Director or his/her designee shall be submitted to and reviewed by the City Council, if requested by the applicant.
 - (2) The appeal shall be scheduled for consideration of the site plan on the regular agenda of the Council within 30 days after the submission is received, or, in the case of an incomplete submission, 30 days after the submission is deemed complete.
 - (3) The Council shall review the site plan and shall approve, approve subject to certain conditions, or disapprove the concept plan or site plan.
 - (4) The City Council shall determine final approval or disapproval of all site plan appeals.