

ORDINANCE NO. 2471

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE CODE OF GILBERT, ARIZONA, CHAPTER 14 BUSINESSES, BY ADDING ARTICLE V MOBILE FOOD VENDING, SECTIONS 14-136 TO 14-140, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES

WHEREAS, the Town of Gilbert has a responsibility to ensure the health and safety of town residents;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. In General.

The Code of Gilbert, Arizona, Chapter 14 Businesses, is amended by adding Article V Mobile Food Vending, sections 14-136 to 14-140 to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

SEC. 14-136. DEFINITIONS.

THE FOLLOWING WORDS, TERMS AND PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

GOODS OR MERCHANDISE INCLUDES ITEMS AND PRODUCTS OF EVERY KIND AND DESCRIPTION, INCLUDING ALL FOODS, PRODUCE AND BEVERAGE ITEMS.

HUMAN POWERED FOOD VENDING VEHICLES SHALL MEAN ANY DEVICE MOVED BY HUMAN POWER INCLUDING, BUT NOT NECESSARILY LIMITED TO, ANY PUSH CART, WAGON, BICYCLE, TRICYCLE, GROCERY CART, OR OTHER WHEELED CONTAINER OR CONVEYANCE.

ICE CREAM TRUCK SHALL MEAN EVERY MOTOR VEHICLE, AS THAT TERM IS DEFINED IN THE ARIZONA REVISED STATUTES IN WHICH IS EQUIPPED OR PRIMARILY USED FOR THE RETAIL SALES OF ICE CREAM ON ANY PUBLIC STREET, ALLEY, OR HIGHWAY, OR PRIVATE STREET, OR ALLEY WITHIN THE TOWN.

FOOD VENDING VEHICLE SHALL MEAN ANY VEHICLE, AS THAT TERM IS DEFINED IN THE ARIZONA REVISED STATUTES, WHICH IS EQUIPPED OR PRIMARILY USED FOR RETAIL SALES OF FRUITS, VEGETABLES, OR PRODUCE, AND/OR PREPARED, PRE-PACKAGED, OR UNPREPARED, UNPACKAGED FOOD OR BEVERAGE OF ANY KIND ON ANY PUBLIC OR PRIVATE STREET, ALLEY, HIGHWAY, OR PROPERTY WITHIN THE TOWN. THE INVENTORY OF THESE VEHICLES IS NOT NECESSARILY LIMITED TO EDIBLE ITEMS AND MAY INCLUDE NON-FOOD SUNDRIES. A HUMAN POWERED FOOD VENDING VEHICLE IS NOT A FOOD VENDING VEHICLE.

MOBILE FOOD VENDOR SHALL MEAN ANY PERSON, AS DEFINED IN THIS CHAPTER, WHO:

- (1) OWNS, CONTROLS, MANAGES, AND/OR LEASES A FOOD VENDING VEHICLE, ICE CREAM TRUCK, OR HUMAN POWERED FOOD VENDING VEHICLE; OR
- (2) CONTRACTS WITH A PERSON(S) TO DRIVE, OPERATE, PREPARE FOODS, AND/OR VEND FROM A FOOD VENDING VEHICLE, ICE CREAM TRUCK, OR HUMAN POWERED FOOD VENDING VEHICLE.

OPERATOR AS USED IN THIS CHAPTER SHALL MEAN ANY PERSON WHO DRIVES, OPERATES, PREPARES FOODS, AND/OR VENDS FROM A FOOD VENDING VEHICLE, ICE CREAM TRUCK, OR HUMAN POWERED FOOD VENDING VEHICLE.

SEC. 14-137. BUSINESS LICENSE.

(a) *REQUIRED.* IT IS UNLAWFUL FOR ANY MOBILE FOOD VENDOR TO CONDUCT BUSINESS WITHOUT FIRST OBTAINING AND MAINTAINING IN EFFECT A BUSINESS LICENSE PURSUANT TO THIS CHAPTER. A SEPARATE LICENSE IS REQUIRED FOR EACH FOOD VENDING VEHICLE, ICE CREAM TRUCK, OR HUMAN POWERED FOOD VENDING VEHICLE.

(b) *APPLICATION.* IN ADDITION TO THE REQUIREMENTS SET FORTH IN SECTION 14-38, APPLICANTS FOR A LICENSE SHALL FILE WITH THE DEVELOPMENT SERVICES DIRECTOR THE FOLLOWING INFORMATION:

- (1) A DESCRIPTION OF THE GOODS TO BE SOLD.

(2) IF APPLICANT IS AN EMPLOYEE OR AGENT OF THE BUSINESS FOR WHICH THE LICENSE WILL BE ISSUED, THE NAME AND ADDRESS OF THE EMPLOYEE OR AGENT, IF DIFFERENT FROM THE BUSINESS ADDRESS, TOGETHER WITH CREDENTIALS ESTABLISHING THE EXACT RELATIONSHIPS WITH THE MOBILE FOOD VENDOR.

(3) IF A VEHICLE IS TO BE USED, A DESCRIPTION AND PHOTOGRAPH OF THE VEHICLE MUST BE SUBMITTED, TOGETHER WITH THE LICENSE NUMBER OR OTHER MEANS OF IDENTIFICATION.

(4) IF THE APPLICANT INTENDS TO OPERATE ON TOWN PROPERTY OR IN THE RIGHT-OF-WAY, A STATEMENT AS TO WHETHER THE APPLICANT HAS BEEN CONVICTED OF ANY FELONY AND THE NATURE OF THE OFFENSE.

(5) THE LOCATION(S) FROM WHICH THE APPLICANT INTENDS TO CONDUCT BUSINESS AND A PERMANENT ADDRESS TO WHICH NOTIFICATIONS MAY BE SENT.

(6) THE FULL NAME OF THE PERSON AND ANY OTHER NAMES USED DURING THE PREVIOUS FIVE YEARS.

(7) PROOF OF THE PERSON'S AGE, SUCH AS A DRIVER'S LICENSE, PASSPORT OR BIRTH CERTIFICATE COUPLED WITH A GOVERNMENTAL PHOTO IDENTIFICATION DOCUMENT.

(8) A COMPLETED GOOD NEIGHBOR POLICY FORM PROVIDED BY THE DEVELOPMENT SERVICES DEPARTMENT.

(c) IN ADDITION TO THE OTHER REQUIREMENTS OF THIS ARTICLE, A MOBILE FOOD VENDOR WHO CONDUCTS BUSINESS FROM A VEHICLE SHALL PROVIDE PROOF OF VEHICLE LIABILITY INSURANCE WHICH SHALL BE MAINTAINED DURING THE TERM OF THE LICENSE AND SHALL BE IN AT LEAST THE MINIMUM AMOUNT REQUIRED BY LAW.

SEC. 14-138. LOCATION.

(a) SALES BY MOBILE FOOD VENDORS MAY BE CONDUCTED ON A SURFACE THAT MEETS THE REQUIREMENTS OF SECTIONS 30-62, 30-63 OF THE CODE.

(b) IT IS UNLAWFUL FOR ANY LICENSEE UNDER THIS ARTICLE TO CONDUCT BUSINESS:

(1) ON TOWN PROPERTY OR PUBLIC RIGHT-OF-WAY WITHOUT A WRITTEN AGREEMENT OR PERMIT. EXCEPTION: OPERATORS OF ICE CREAM TRUCKS OR HUMAN POWERED FOOD VENDING VEHICLES MAY CONDUCT BUSINESS IN THE PUBLIC RIGHT-OF-WAY FOR NO MORE THAN TEN MINUTES AT A TIME IN ANY ONE LOCATION.

(2) WITHIN A PUBLIC PARK UNLESS THE LICENSEE HAS OBTAINED A PERMIT FROM THE PARKS AND RECREATION DIRECTOR.

(3) IN ANY CONGESTED AREA WHERE THE BUSINESS MIGHT IMPEDE OR INCONVENIENCE THE PUBLIC AND, FOR THE PURPOSES OF THIS SECTION, THE JUDGMENT OF A POLICE OFFICER, EXERCISED IN GOOD FAITH, SHALL BE DEEMED CONCLUSIVE AS TO WHETHER THE AREA IS CONGESTED OR THE PUBLIC IMPEDED OR INCONVENIENCED.

(4) WITHOUT WRITTEN PERMISSION OF THE PROPERTY OWNER FOR USE OF THE PROPERTY, WHICH WRITTEN PERMISSION SHALL BE CARRIED WHEN CONDUCTING SUCH BUSINESS.

(5) WITHOUT HAVING FIRST OBTAINED ALL REQUIRED COUNTY OR TOWN PERMITS.

SEC. 14-139. MISCELLANEOUS.

(a) SIGNAGE ATTACHED TO A MOBILE FOOD VENDING VEHICLE SHALL NOT REQUIRE A SIGN PERMIT.

(b) THE PARKING OF A LICENSED AND OPERATIONAL VEHICLE SHALL NOT EXCEED NINETY-SIX (96) CONSECUTIVE HOURS AT THE SAME LOCATION.

(c) VENDORS/OPERATORS OF FOOD VENDING VEHICLE SHALL ARRANGE FOR APPROPRIATE TRASH RECEPTACLES DURING OPERATIONS AND SHALL KEEP THE AREA SURROUNDING THE MOBILE FOOD VENDING VEHICLE FREE OF DEBRIS, LITTER AND WASTE.

(d) VENDORS/OPERATORS SHALL NOT USE TOWN TRASH RECEPTACLES TO DISPOSE OF WASTE UNLESS TOWN DISPOSAL SERVICE HAS BEEN PAID FOR.

(e) FOOD VENDING VEHICLES IN OPERATION WITHOUT A GILBERT FIRE DEPARTMENT APPROVED FIRE SUPPRESSION SYSTEM MUST MAINTAIN A TEN (10) FOOT SEPARATION BETWEEN MOBILE FOOD VENDING VEHICLES (BUMPER TO BUMPER, SIDE TO SIDE), ALL STRUCTURES, AND PROPERTY LINES.

SEC. 14-140. CIVIL SANCTIONS.

ANY PERSON FOUND RESPONSIBLE FOR VIOLATING THIS SECTION SHALL BE SUBJECT TO THE CIVIL SANCTION AND HABITUAL OFFENDER PROVISIONS SET FORTH IN SECTION 1-5 OF THE GILBERT MUNICIPAL CODE.

SECTION II. PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES.

ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE OR ANY PART OF THE CODE ADOPTED HEREIN BY REFERENCE, ARE HEREBY REPEALED.

SECTION III. PROVIDING FOR SEVERABILITY.

IF ANY SECTION, SUBSECTION, SENTENCE, CLAUSE, PHRASE OR PORTION OF THIS ORDINANCE OR ANY PART OF THE CODE ADOPTED HEREIN BY REFERENCE, IS FOR ANY REASON HELD TO BE INVALID OR UNCONSTITUTIONAL BY THE DECISION OF ANY COURT OF COMPETENT JURISDICTION, SUCH DECISION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS THEREOF.

PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this 30th day of January, 2014, by the following vote:

AYES: COOK, COOPER, DANIELS, LEWIS, PETERSEN, RAY, TAYLOR

NAYES: NONE ABSENT: NONE

EXCUSED: NONE ABSTAINED: NONE

APPROVED this 30TH day of JANUARY, 2014.



John W. Lewis, Mayor

ATTEST:



Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:



L. Michael Hamblin
Town Attorney

I, CATHERINE A. TEMPLETON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 2471 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 30TH DAY OF JANUARY, 2014, WAS POSTED IN FOUR PLACES ON THE 6th DAY OF FEBRUARY, 2014.



Catherine A. Templeton, Town Clerk