

ORDINANCE NO. 2023-613

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS, CALIFORNIA, ADDING CHAPTER 5.97 TO TITLE 5 OF THE HAWAIIAN GARDENS MUNICIPAL CODE, IMPOSING REGULATIONS ON MOBILE FOOD VENDING

WHEREAS, the City of Hawaiian Gardens, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, pursuant to the police powers delegated to it by the California Constitution, the City has the authority to enact laws which promote the public health, safety, and general welfare of its citizens; and

WHEREAS, the City is authorized to regulate Mobile Food Vending in accordance with Vehicle Code § 22455 and Health & Safety Code § 114315; and

WHEREAS, regulating the hours and location of Mobile Food Vending benefits the health, safety and welfare of City residents because the operation of these vehicles at inappropriate hours or locations creates traffic hazards, blocks adjacent sidewalks to pedestrians, results in unwanted noise, littering and loitering at that location and/or creates hazards; and

WHEREAS, regulating the manner and type of Mobile Food Vending benefits the health, safety and welfare of the City because the inappropriate operation and uncontrolled proliferation of these vehicles creates traffic hazards, blocks adjacent sidewalks to pedestrians, results in unwanted noise, littering and loitering at that location and/or creates hazards; and

WHEREAS, regulating Mobile Food Vending on private property is consistent with the City’s interests in the aesthetics of the community and ensuring vehicles on private property do not create traffic hazards, block adjacent sidewalks to pedestrians, results in unwanted noise, littering and loitering at that location and/or create hazards.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS DOES ORDAIN AS FOLLOWS:

SECTION 1. The recitals set forth above are true and correct and are hereby adopted as findings in support of this Ordinance as if fully set forth herein.

SECTION 2. Chapter 5.97 of Title 5 of the Hawaiian Gardens Municipal Code is hereby added to read in its entirety as follows:

“CHAPTER 5.97 – MOBILE FOOD VENDING”

5.97.010 Purpose and Intent

The City of Hawaiian Gardens is authorized to regulate Mobile Food Vending in accordance with Vehicle Code § 22455 and Health & Safety Code § 114315. The City Council expressly finds that vehicles in which produce, confections, and food products are prepared, cooked, and/or carried for

purposes of retail sale on the public streets pose special dangers to the public health, safety, and welfare of children and residents in the City of Hawaiian Gardens. It is the purpose and intent of the City Council, in enacting this, to provide responsible companies and individuals who engage in the operation of mobile food vending with clear and concise regulations to prevent safety, traffic, and health hazards, as well as to preserve the peace.

5.97.020 Definitions

For purposes of this chapter, the following words shall have the meaning ascribed below:

- A. “City” means City of Hawaiian Gardens.
- B. “Director” means the Director of Community Development.
- C. “Food Truck” means a motorized vehicle or mobile food unit equipped and used for retail sales, Mobile Food Vending, or offering of prepared, prepackaged, or unprepared food operating at one or more locations within the City. This definition shall include trailers or wagons pulled by a vehicle and used as described herein.
- D. “Operator” means any person who owns, controls, manages, leases, drives, and/or operates a Food Truck or vehicle for the purpose of Mobile Food Vending.
- E. “Person” means any natural person, firm, partnership, association, corporation, stockholder, including but not limited to owners, operators, lessors, and lessees of vehicles used for Mobile Food Vending.
- F. “Mobile Food Vending” or “Vending” means offering food, beverage, merchandise, or related product of any kind for sale or distribution from a Food Truck on any street, alley, highway, public place, or private property.
- G. “Special Event Permit” means a permit issued for the temporary use of, or encroachment on, a sidewalk or other public, include temporary use permits and special event permits issued pursuant to this Municipal Code.
- H. “Vendor” means any person who is engaged in Mobile Food Vending.

5.97.030 - Business License Required

It shall be unlawful to engage in any operation of Mobile Food Vending within the City without first obtaining a current valid business license issued by the City pursuant to this Chapter and Title 5.04 of the Municipal Code. All Operators shall have displayed in a conspicuous place on the Food Truck a current valid business license issued by the City.

5.97.040 – County Permit Required

It shall be unlawful to engage in any operation of Mobile Food Vending within the City without first obtaining any and all required permits for Mobile Food Vending from the County of Los

Angeles. All Operators shall have displayed in a conspicuous place on the Food Truck a current valid permit issued by the County.

5.97.050 – Mobile Food Vendor Permit Required

- A. It shall be unlawful to engage in any operation of Mobile Food Vending within the City without a valid Mobile Food Vendor Permit issued by the Community Development Director. All Operators shall have displayed in a conspicuous place on the Food Truck a current valid Mobile Food Vendor Permit issued by the City.
- B. A Mobile Food Vendor Permit shall be required for each Food Truck that will engage in Mobile Food Vending within the City.
- C. The term of a Mobile Food Vendor Permit, unless sooner suspended or revoked, shall be for a period of one year from the date of issuance.
- D. Within 30 days of expiration of the Mobile Food Vendor Permit, the Operator may renew the permit for an additional one-year term by submitting a new application in conformance with this Chapter and Title 5 of the Municipal Code and paying all associated fees. Failure to timely renew is grounds for denial of renewal.
- E. Exemptions. A Mobile Food Permit shall not be required for the following activities:
 - 1. Catering for private events held exclusively on private property and not open to the general public. Food Trucks for private events must still comply with the location and sitting requirements of this Chapter.
 - 2. Events permitted pursuant to a lawfully issued Special Event Permit, including but not limited to a Certified Farmers’ Market, Swap Meet, street fairs, outdoor concerts, sport league opening day, or approved vendors at City sponsored events.

5.97.060 Mobile Food Vendor Permit Application Contents

- A. Prior to obtaining a business license, the applicant must first obtain a Mobile Food Vendor Permit from the Community Development Director. All applications shall include the following:
 - 1. The name under which the business will be conducted;
 - 2. The legal name and any other names used by the applicant;
 - 3. The present residence and business address, telephone numbers, and email address of the applicant;
 - 4. The nature of the type of business to be performed. This includes, but is not limited to, the type of vehicle, vending, and the general description of the type of food, beverage, merchandise, or related products to be sold;

5. The days and hours of operation the applicant intends to operate;
6. The number of vehicles owned, operated, leased, controlled, or contracted by the applicant to be used in the City;
7. The makes, models, state license plate numbers, and names and addresses of the registered and/or legal owners of each vehicle;
8. A description of the logo, color scheme, insignia, and any other distinguishing characteristics of the applicant's vehicle(s);
9. The legal names, addresses and telephone numbers of all persons employed or intended to be employed, or with whom the applicant has contracted, leased or intends to contract with as driver and Operator of the applicant's vehicle(s), and in addition, a copy of their driver's license and any other identification required to operate the applicant's vehicle(s);
10. Identification of each jurisdiction in California the applicant currently operates and has previously operated a Food Truck for the last three years. If the applicant has ever had any similar license or permit revoked or suspended in the last three years, the applicant must disclose the circumstances of such suspension or revocation;
11. Such other identification and/or information as the Community Development Director or their designee may require in order to discover the truth of the matters required to be set forth in the application;
12. A certification that the application complies with all local, State and Federal laws regarding food product vending, including all applicable sales tax requirements and this Chapter;
13. The applicant shall maintain and supply to the City copies of policies of commercial general liability and automobile liability insurance, in an amount of no less than \$1,000,000 per occurrence, naming the City and its officials, officers, employees, agents, and volunteers as an additional insured; and
14. When any change in the business occurs regarding the written information required by this Section prior to or after issuance of a Permit, the applicant shall give written notification of such change to the Community Development Director within two weeks after such change.
15. A copy of the California seller's permit with the sales tax number issued by the California Department of Tax and Fee Administration to the Applicant, if required.
16. A list of all other cities or other jurisdictions in which the Applicant has operated a Food Truck in the past three (3) years; whether a permit was required to operate; and whether a permit for Mobile Food Vending has been revoked in the past three (3) years.

17. An agreement by the Applicant to indemnify, defend (at the Applicant's sole cost and expense), and hold the City of Hawaiian Gardens, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance or failure to issue a Mobile Food Vending Permit, the City's decision to approve or its refusal to approve the Mobile Food Vending Permit, the operation of the Mobile Food Vending use and activity, and the process used by the City in making its decision. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the permittee, City, and/or the parties initiating or bringing such proceeding.
 18. An acknowledgement that Applicant will comply with all generally applicable local, state, and federal laws.
 19. A certification by the Applicant that to his or her knowledge and belief, the information contained in the application is true.
- B. Prior to the issuance of a Food Truck Permit, the Applicant shall cause to be filed with the Sheriff's Department Chief of Police or his/her designee a LiveScan background check conducted by the California Department of Justice within the previous six (6) months of the application date. The Sheriff shall furnish each applicant with a LiveScan request form for use at any LiveScan vendor location.
- C. At the time the application or renewal application is filed, the applicant shall pay the permit processing fee established by separate resolution of the City Council. Applications shall not be accepted unless accompanied by payment of an application fee. A separate fee will be required for each Mobile Food Vending operation.

5.97.070 - Mobile Food Vendor Permit Issuance

- A. Except as provided in this Chapter, the Community Development Director or their designee, after investigation of the application shall approve or conditionally approve the Mobile Food Vendor Permit if the application conforms with all of the following findings:
1. Granting the application will not be detrimental or injurious to property or improvements, the public peace, health, safety, morals or welfare of the City or the inhabitants;
 2. The application conforms in all respects to the provisions of this Chapter;
 3. All required fees have been paid in full; and,
 4. Notwithstanding Section 5.97.060(A), all necessary licenses and permits have been obtained.

- B. If such Mobile Food Vendor Permit is granted, the Community Development Director or designee may impose such terms, conditions, and restrictions upon the operation and conduct of such business, not in conflict with any law, as it may deem necessary or expedient to protect the public peace, safety, morals, or welfare of the City and its inhabitants.

5.97.080 - Mobile Food Vendor Permit Denial

- A. If the Community Development Director or their designee finds that any of the requirements set forth in Section 5.97.070 have not been met, they shall deny the application for a Mobile Food Vendor Permit.
- B. In the event the application is denied, written notice of such denial shall be given to the applicant specifying the basis for such denial.
- C. Notice of denial shall be deemed to have been served if it is personally served to the applicant or when deposited in the United States mail with prepaid postage and addressed to the applicant at their address as set forth in the application.
- D. Any person aggrieved by a decision of the Community Development Director to deny issuance of the Mobile Food Vendor Permit may appeal to the City Council by filing a notice of appeal pursuant to Chapter 1.14 of the Municipal Code.

5.97.090 - Mobile Food Vendor Permit Suspension and Revocation

- A. Any Mobile Food Vendor Permit may be suspended or revoked by the Community Development Director for any of the following reasons:
 - 1. Falsehood of any information supplied by the Operator upon which issuance of the Mobile Food Vendor Permit was based;
 - 2. Failure of the Operator to notify the Community Development Director within two weeks of any change occurring subsequent to the issuance of the Mobile Food Vendor Permit in the information supplied by the Operator upon which issuance of the Mobile Food Vendor Permit was based;
 - 3. Failure of the Operator, or of any employees, subcontractors, or independent contractors of the Operator, to comply with the regulations set forth in this Chapter;
or
 - 4. Violation by the Operator, or any employee, subcontractor, or independent contractor of the Operator of any Federal or State law or the Municipal Code while in the course of conducting Mobile Food Vending operations pursuant to the Mobile Food Vendor Permit.
- B. No such suspension or revocation shall become effective until the City has served Operator with notice in writing of the right to appeal the suspension or revocation.

Notification of the Operator shall be made either by personal delivery or by certified or registered mail, return receipt requested, addressed to the Operator's residence address as set forth on the application for a Mobile Food Vendor Permit. Service by mail is deemed complete at the time of deposit in the mail. If an appeal is filed, the suspension or revocation shall be stayed and shall become effective only upon decision of the City Council. The suspension or revocation shall become effective after the timely appeal period has expired. Failure of any applicant or permittee to receive a properly-addressed notice by mail shall not invalidate any action, decision, determination, or proceeding under this Chapter.

- C. Any Operator aggrieved by a decision of the Community Development Director to suspend or revoke the Mobile Food Vendor Permit may appeal to the City Council by filing a notice of appeal pursuant to Chapter 1.14 of the Municipal Code.
- D. No Operator whose permit is revoked shall be eligible to apply for a new permit for a period of one year following such revocation.

5.97.100 - Location and Siting Requirements

- A. Generally. All Food Trucks shall be located so as not to impede safe movement of vehicular, bicycle or pedestrian traffic, and to maintain a clear line of sight for vehicles, bicycles and pedestrians in the public right-of-way. No Food Trucks shall be located so as to obstruct access to or circulation through any parking lot, or to obstruct access to any public sidewalk or alley.
- B. Private Property.
 - 1. A Food Truck shall be parked on a paved surface outside any designated fire lane and outside any parking or loading space that is required for the principal use on the property.
 - 2. A Food Truck shall not reduce the available parking on the property below the minimum number of parking spaces required to serve the existing use(s) on the lot.
 - 3. For a property that is nonconforming with respect to parking, a Food Truck shall not reduce the total existing amount of parking on the lot.
- C. Public Right of Way. Mobile Food Vending in the public right-of-way is permitted only as set forth in this Section.
 - 1. For purposes of this Section, distance shall be measured in a straight line from the location where the Food Truck is parked.
 - 2. A Food Truck in operation shall be located as follows:
 - i. A minimum two-hundred and fifty (250) feet from any house of worship, school (during its hours of operation), day care facility, public park, hospital, library, or governmental office or facility.

- ii. A minimum fifty (50) feet from any other vehicle of a similar business which is engaged in the operation of Mobile Food Vending.
- iii. A minimum ten (10) feet from any driveway, or public or private building entrance, or in any space not designed for vehicular parking.
- iv. A minimum of twenty-five (25) feet from any bus stop.
- v. A minimum of twenty-five (25) feet from any street intersection controlled by a traffic light, crosswalk, or stop sign.

5.97.110 - Operational Requirements

It shall be unlawful to engage in Mobile Food Vending on any public street, alley, or highway unless all of the following are met:

1. Operators shall comply with all applicable provisions of this Chapter.
2. Operators shall comply with all applicable local, State, and Federal laws.
3. It is unlawful to engage, or attempt to engage, in Mobile Food Vending until the Food Truck has come to a complete stop and is lawfully parked.
4. Operators shall comply with all local parking and Vehicle Code provisions which apply to the location at which the Food Truck is parked.
5. The part of the Food Truck from which the products are vended must be open to prospective customers on the side facing toward the adjacent sidewalk only.
6. It is unlawful to vend to persons within a vehicle or standing in any portion of the right of way open to motor vehicles.
7. Use of sound-amplifying equipment is prohibited.
8. Operators shall be subject to the noise provisions of Title 9, Chapter 9.29 of this Municipal Code.
9. Operators shall prohibit patrons from loitering at or adjacent to the Food Truck.
10. Food Trucks may operate Monday through Sunday between the hours of 8:00 a.m. and 9:00 p.m. A Food Truck may not stand or park in one spot in the public right-of-way for more than two (2) hours.
11. Food Trucks are strictly prohibited from obstructing emergency vehicle route, fire call boxes, fire lanes, fire hydrants, or any other fire safety equipment and facilities.
12. Operators shall maintain vehicular and pedestrian circulation and access consistent with the Americans with Disabilities Act and all local and state regulations.

13. The Operator shall provide a trash receptacle for public use. The trash receptacle must be placed on the exterior of and within ten (10) feet of the Food Truck. The Operator shall keep all areas within 25 feet of the Food Truck clean and free from litter, garbage, and debris. The Operator shall ensure that all trash and waste collected from its operations is lawfully and properly disposed.
14. Exterior storage of refuse, equipment, or materials associated with the Food Truck is prohibited.
15. No tables, chairs, furniture, or other seating provisions for customers shall be allowed.
16. It shall be unlawful to discharge any liquid (e.g., water, grease, oil, etc.) onto or into City streets, storm drains, catch basins, or sewer facilities. All discharges shall be contained and properly disposed of by the Operator.
17. Signs used in conjunction with a Food Truck shall be affixed to or painted on the vehicle and shall comply with all sign regulations in the Municipal Code.
18. The serving or consumption of alcohol shall be prohibited.
19. It shall be unlawful for a Food Truck to remain parked and conducting business in one location longer than one hour, unless the Food Truck is situated within two-hundred (200) feet travel distance of a legally approved and permitted toilet and handwashing facility, to ensure that restroom facilities are available to the Operator and its employees and contractors. Operator must have permission of the property owner to use the toilet and handwashing facility.
20. The Operator shall maintain insurance as required by this Chapter.

5.97.120 – Enforcement

Violation of any provision of this Chapter is subject to enforcement pursuant to the provision of Chapter 1.12 and 1.13 of this Municipal Code.

SECTION 3. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council of the City of Hawaiian Gardens hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 4. This Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines, as it is not a “project” and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a). Further, this Ordinance is exempt from CEQA as there is no

possibility that this Ordinance or its implementation would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3). The City Clerk shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

SECTION 5. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 6. Records. The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council’s findings and determinations are based are located at City Hall, 21815 Pioneer Blvd, Hawaiian Gardens, CA 90716.

SECTION 7. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Hawaiian Gardens, California, at a regular meeting of the City Council held on the 14th day of November, 2023.

CITY OF HAWAIIAN GARDENS

/S/
Maria Teresa Del Rio, Mayor

ATTEST:

/S/
Pablo Rubio, City Clerk

APPROVED AS TO FORM:

/S/
Megan K. Garibaldi
City Attorney

**CITY OF HAWAIIAN GARDENS
CITY CLERK'S OFFICE
CERTIFICATION**

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Pablo Rubio, City Clerk of the City of Hawaiian Gardens, do hereby certify that **Ordinance No. 2023-613**, was duly and regularly introduced, adopted, and passed at a Regular meeting of the City Council on the **14th day of November 2023** by the following votes as the same appears on file and of record in the Office of the City Clerk.

AYES: DE PAULA, ROA, VARGAS, FARFAN, DEL RIO
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

/S/ _____
Pablo Rubio
City Clerk