

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 15, ARTICLE II OF THE MOUNTAIN VIEW CITY CODE RELATED TO MOBILE VENDORS

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 15, Article II, of the Mountain View City Code is hereby amended to read as follows:

“ARTICLE II. - MOBILE VENDORS

DIVISION 1. - GENERALLY

SEC. 15.11. Findings and purpose.

Mobile vendors create a potential for safety hazards, including interfering with motorists and pedestrians and visibility when parked, due to their height and bulk; creating pedestrian conflicts on already congested sidewalks, particularly in the downtown area; preventing normal turnover of the city’s very limited on-street parking spaces, resulting in motorists becoming distracted and slowing traffic while looking for parking spaces; encouraging pedestrian crossings midblock to make purchases from mobile vendors; placing equipment and furniture on public sidewalks, creating potential hazards and obstructing sidewalks used by pedestrians.

The city’s downtown area has high levels of pedestrian and motor vehicle traffic and, according to the 2011 Parking Study, the downtown area is underparked, further contributing to driver distractions in a highly trafficked area.

Ensuring that mobile vendors are operated safely benefits the health, safety and welfare of all residents, patrons and businesses of the City of Mountain View.

Regulating the location and hours of operation of mobile vendors also benefits the health, safety and welfare of city residents, patrons and businesses because the operation of mobile vendors at inappropriate hours, or at inappropriate locations, creates traffic hazards, obstruction of adjacent sidewalks to pedestrians, and unwanted noise, littering and loitering at a particular location.

The regulation of mobile vendors on private property is also consistent with the city's interest in the aesthetics of the community and promoting economic development on private property.

The purpose of these regulations is to advance the city's interest in public safety and protecting the public.

SEC. 15.12. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

a. **Ancillary use.** "Ancillary use" shall mean the use of a portion of the property which is used for a purpose that is subordinate to the main use of the property. A mobile vendor who is temporarily vending on private property shall be considered an ancillary use to the main use of the property and is not a separate use that must comply with the zoning code, Chapter 36 of the city code.

b. **Downtown area.** "Downtown area" shall mean the commercial districts of the downtown precise plan area of the city.

c. **Finance director.** "Finance director" shall mean the finance and administrative services director of the City of Mountain View or his/her designee.

d. **Food.** "Food" shall include all articles used for food, drink, confectionery, or condiment, whether simple or compound, and all substances and ingredients used in the preparation thereof.

e. **Health officer.** "Health officer" shall mean the county health officer, his/her assistants, or authorized deputies acting as health officers of the city.

f. **Mobile food vendor.** "Mobile food vendor" shall mean any mobile vendor who sells or offers for sale food, and includes any person who engages in such operations as an agent or employee of a food vendor.

g. **Mobile vendor.** "Mobile vendor" shall mean any person who, on or along any street or sidewalk, or operating any vehicle or other mobile unit on private property, sells or offers for sale any goods, wares, merchandise, services, food, or other things of value from a cart, stand or other structure, from his/her person, or from a vehicle or other mobile unit, and includes the person who engages in such vending operations as an agent or employee. Mobile vendor shall include a "sidewalk vendor" as defined in subsection (n). Catering services that do not meet this definition of a mobile vendor are subject to Article I of this chapter. Mobile vendors do not include

outdoor retail sales of adjacent businesses or on-demand mobile fueling operators subject to Chapter 14 of the city code.

h. **Other mobile units.** "Other mobile units" shall mean any vehicle, truck, trailer, cart, wagon, dray, conveyance or structure not firmly fixed to a permanent foundation which does not specifically require a license to operate by the department of motor vehicles of the state.

i. **Person.** "Person" shall mean all domestic and foreign companies, corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, businesses, or common-law trusts, societies and individuals.

j. **Police chief.** "Police chief" shall mean the police chief of the City of Mountain View or his/her designee.

k. **Principal mobile vendor.** "Principal mobile vendor" shall mean the mobile vendor in charge of a particular vending operation and the named applicant, rather than a vendor who is working as an agent or employee of another vendor.

l. **Processed meats.** The term "processed meats" shall mean any meat or meat food product that has been canned, potted, cased, cooked, cured or otherwise prepared for human consumption under the inspection, and carrying the brand, of an official meat inspection service approved by the bureau of meat inspection of the state department of agriculture. This definition does not include fresh meat, cased fresh ground meat, fish or poultry of any kind.

m. **Processing.** "Processing" shall include cooking, mixing, blending, compounding or the preparation of foods for human consumption.

n. **Sidewalk vendor.** "Sidewalk vendor" shall mean the same as it is defined in Government Code Sec. 51036, as it may be amended from time to time.

no. **Special event.** "Special event" shall mean any event or location, other than on a street or sidewalk, on any individual property at which four (4) or more mobile vendors are operating at the same time, or total mobile vending operations on any individual property exceeds four (4) hours within any twenty-four (24) hour period.

op. **Vehicle.** "Vehicle" shall mean any automobile, truck, trailer or other conveyance requiring a license from the department of motor vehicles of the state.

SEC. 15.13. Business licenses.

Every mobile vendor shall acquire a city business license in accordance with Chapter 18 of this code for each cart, vehicle or other mobile unit from which vending is to be conducted as a condition of doing business in the city.

SEC. 15.14. Penalties.

The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity, including, but not limited to, Chapter 1 of this code.

a. Violation of any of the provisions of this article, except for violations by a sidewalk vendor, shall constitute a misdemeanor and shall be criminally punishable as follows:

1. By a fine not exceeding one hundred dollars (\$100.00) for a first offense;
2. By a fine not exceeding two hundred fifty dollars (\$250.00) for a second violation of the same regulation within one (1) year;
3. By a fine not exceeding five hundred dollars (\$500.00) for a third or subsequent violation of the same regulations within one (1) year.

b. Violation of any of the provisions of this article shall be punishable by an administrative fine in conformance with Government Code Sec. 51039 as follows:

1. Vending without a mobile vending permit shall be punishable by an administrative fine of an amount not to exceed:

- (a) Two Hundred Fifty Dollars (\$250.00) for a first violation;
- (b) Five Hundred Dollars (\$500.00) for a second violation within one (1) year of the first violation; and
- (c) One Thousand Dollars (\$1,000.00) for each additional violation within one (1) year of the first violation.

2. Upon proof of issuance of a valid mobile vending permit prior to the date of violation, fines shall be reduced to the administrative fine amounts set forth in Subsection 3.

3. Violations other than vending without a permit shall be punishable by an administrative fine not to exceed:

(a) One Hundred Dollars (\$100.00) for a first violation;

(b) Two Hundred Dollars (\$200.00) for a second violation within one (1) year of the first violation;

(c) Five Hundred Dollars (\$500.00) for each additional violation within one (1) year of the first violation.

4. Additional fines, including, but not limited to, fees or assessments beyond those authorized in Subsections 1 and 3 shall not be assessed, including, but not limited to, late penalties.

5. When imposing an administrative fine, the city shall provide notice of a person's right to request an ability-to-pay determination, and instructions and other materials for requesting an ability-to-pay determination will be made available. A person who meets the criteria set forth in Government Code Subdivision (a) or (b) of Sec. 68632 shall only be required to pay twenty (20) percent of the fine amount imposed, in full satisfaction thereof.

cb. Each day on which a violation continues shall be deemed a separate punishable offense.

DIVISION 2. - PERMITS

SEC. 15.15. Permit required.

a. Each mobile vendor shall acquire a mobile vendor permit from the finance director and shall pay to the city an annual mobile vendor fee in the amount established by resolution of the city council before conducting business in the city. Permits shall be issued on a calendar-year basis, valid for one (1) year, and in the name of the principal mobile vendor. In cases in which the duration of the permit will be less than one (1) year, the finance director may prorate the amount of the fee based on the period of time during which the permit will remain valid. If the principal mobile vendor chooses to designate agents or employees, he/she must provide all of the information requested in Sec. 15.17 in his/her application for a mobile vendor permit. Except as set forth in Sec. 15.22, ~~If~~ a proposed agent or employee is ineligible to vend in the city due to a revocation or suspension of a prior permit, and he/she will not be permitted to vend as an agent or employee of the principal mobile vendor. The city may charge an additional fee in the amount established by resolution of council for each agent or employee designated by the principal mobile vendor or business entity and approved by the city.

b. A mobile vendor must obtain all required local, state and/or federal permits to operate, in addition to any required city permits.

c. **Exceptions.** Mobile vendors vending any of the following are exempt from obtaining a mobile vending permit:

1. Leaflets, newspapers, pamphlets, bumper stickers or buttons; and
2. Items that have been created, written, composed or otherwise produced by the vendor which include books, cassettes, tapes, CDs, paintings, photographs, sculptures or other items that are inherently communicative and have nominal utility apart from its communication.

Business license requirements pursuant to City Code Chapter 18, Article I, Sec. 18.2 are applicable, however.

SEC. 15.16. Food vending permits.

a. No person shall vend, peddle, sell or hold for sale any food intended for human consumption from their person, a vehicle or other mobile unit in the city unless such person has applied for and received a permit from the health officer to do so (a permit is required for each vehicle or mobile unit so used).

b. Application shall be made in writing to the health officer. The health officer shall, upon receipt of such application, make or cause to be made an examination of the vehicle or other mobile unit for which such permit is requested.

c. If, upon examination, the health officer shall find such vehicles or other mobile units and the equipment thereon to be in accordance with the laws of the state, the requirements of this article and the rules and regulations of the health officer, the health officer shall issue a permit for each vehicle or mobile unit. Such permit shall be issued annually for the calendar year.

d. The county health officer is authorized to impose a permit fee.

e. The health officer shall have authority and shall be permitted in the course of his/her duty to enter into and upon and to inspect any and all vehicles or other mobile units and to inspect the foods, goods and merchandise sold or offered for sale as may be necessary in the enforcement of this article. Refusal of such inspection shall constitute a violation of this article and serve as grounds for permit revocation.

f. Permits for any vehicle or other mobile unit within the city shall not be transferable. Every person who shall sell, exchange, give away, abandon or discontinue any such vehicle or other mobile unit within the city and every person who shall purchase or otherwise acquire any such vehicle or other mobile unit within the city shall immediately notify the health officer as to the fact thereof.

g. The health officer may suspend or revoke any permit authorized by this article whenever he/she finds that the holder of such permit fails or refuses to comply with the laws of the state, this article or any rules and regulations of the health officer promulgated in accordance with the provisions of this article. If any such permit shall be suspended or revoked by the health officer, it shall be unlawful during the period of such revocation or suspension for any person to sell or traffic in any food or drink products in the city in such vehicle or other mobile unit.

h. The permit shall be posted in a conspicuous place upon the vehicle or other mobile unit at all times.

i. No permit shall be required of growers or producers who offer for sale only fruits or vegetables produced on their own or leased premises within the confines of the county. Facilities and food handling methods must in all other particulars comply with the requirements of this article.

j. The health officer may make such additional rules and regulations which, in his/her opinion, will best suit the public interest.

SEC. 15.17. Issuance of mobile vendor permit.

Permits for mobile vendors shall be issued according to the following procedures:

a. **Submission of applications.** Each application for a mobile vendor permit must contain the following information:

1. The name of the applicant (who will serve as the principal mobile vendor and is the primary contact and responsible party for the vending operation and in whose name the permit is sought to be issued); the responsible party named on the application must be available for the duration of the vending operation, meaning either on site of the operation or available by phone;

2. The name of any business by which the applicant is employed as a mobile vendor;

3. The address and phone number of the applicant and of any business by which the applicant is employed as a mobile vendor;

4. The applicant's city business license number;
5. The applicant's resale license number issued by the state board of equalization;
6. Whether applicant has ever previously been issued a vendor's permit by the City of Mountain View, except as applied to sidewalk vendors;
7. The principal mobile vendor may designate an employee/agent as the party to be contacted in the event the city needs to contact someone. By designating an employee/agent, the applicant agrees this party can accept and respond to notices of violations and that the applicant will be responsible for any failure to respond by the designated employee/agent. This includes the city's inability to reach the designated employee/agent. If an employee/agent is designated, the applicant must provide the name, address, phone number and Social Security number, driver's license number, identification number, individual taxpayer identification number or a municipal identification number of each proposed employee/agent and, except as applied to sidewalk vendors, indicate whether the proposed employee/agent has ever been issued a mobile vending permit in the city. If no employee/agent is designated, the principal mobile vendor shall be the only contact and will similarly be responsible for any violations unaddressed;
8. Storage/location of any vehicle or other mobile unit when not in use (for mobile food vendors, the storage/location address must be the same location identified and permitted by the health officer);
9. A description of the goods, wares, merchandise or products which will be the subject of the mobile vendor business or activity; and
10. Other information required by the city as necessary to evaluate the application for a mobile vendor permit.

b. **Application fee.** The city may require each applicant for a mobile vendor permit to pay an application fee at the time of filing his/her application with the finance and administrative services department. The amount of the application fee shall be established by resolution of the city council.

c. **Eligibility.** Applicants who have had a vending permit suspended or revoked by the City of Mountain View pursuant to Sec. 15.22 shall be ineligible for a mobile vending permit for a period of one (1) year following the suspension or revocation of the previously issued permit, except as applied to sidewalk vendors who

shall only be ineligible for a mobile vending permit for the remaining duration of the period for which the permit was issued.

d. **Permits issued to individuals.** Permits are issued to individuals. If a corporation or other business entity wishes to obtain a permit, a responsible party must be named on the application. The named applicant is the principal mobile vendor and will be the responsible party for any violations. The city shall issue vendor permits in the name of the principal mobile vendor as an individual; not to corporations or other business entities by which the principal mobile vendor is employed.

e. **Designation of new vendor agents or employees.** If, during the term of a mobile vendor permit, either the principal mobile vendor or designated employee or agent wishes to terminate the agency or employment relationship, the principal mobile vendor may apply to the finance and administrative services director for approval of another person as a designated agent or employee for the remainder of the permit term.

f. **Compliance with city regulations and applicable state and federal law.** Prior to acquiring a mobile vendor's permit from the city, each mobile vendor shall read and sign a statement agreeing to comply with the regulations set forth in this code and all applicable state and federal laws.

g. **Resale license/agreement to collect and remit state sales tax.** Prior to obtaining a mobile vendor permit, each mobile vendor must have acquired a resale license from the State Board of Equalization and must sign a statement that he/she agrees to collect and remit state sales tax as required by law on all sales conducted in the City of Mountain View.

h. **Requirement for county health permit.** Prior to obtaining a mobile vendor permit, all mobile food vendors shall acquire and maintain a valid county health permit.

i. **Other permit requirements.** Prior to obtaining a mobile vendor permit, every mobile vendor shall obtain all other applicable permits as may be required by local, state or federal law.

j. **Insurance requirements.**

1. Prior to acquiring a mobile vendor's permit from the city, each principal mobile vendor must submit a Certificate of Insurance for commercial general liability and automobile liability insurance each as approved by the city manager or designee; insurance shall include an endorsement for each naming the City of Mountain View, its council, boards, commissions, officers, employees, volunteers and agents as additional insureds; and a copy of the declarations or information page(s) for the policies. The

commercial general liability policy shall cover the property on which the mobile vendor will conduct vending operations.

2. If the principal mobile vendor is required by law to have Workers' Compensation insurance, he/she shall also submit to the risk manager for approval a Certificate of Insurance which shows coverage in the required amount, along with a copy of the declarations or information page(s) for the policy prior to obtaining a mobile vendor permit. If Workers' Compensation insurance is not required by law, the principal mobile vendor shall attest to this and agree to notify the city should employees be hired and/or the principal mobile vendor becomes subject to Workers' Compensation requirements under state law.

3. The Certificate of Insurance, the endorsement naming the city as an additional insured and the coverage must be approved by the city manager or designee before the issuance of a mobile vendor permit.

k. **Administrative rules and practices.**

The finance and administrative services director shall have the authority to adopt and follow administrative rules and practices as necessary to implement the ordinance codified in this section.

SEC. 15.19. Renewal.

Mobile vendor permits shall be issued on a calendar-year basis and valid for one (1) year. Renewal of permits shall be applied for and acted upon in the same manner as specified in this division.

SEC. 15.20. Display of permits.

All permits required by this article shall be prominently displayed at all times on each cart, vehicle or other structure from which vending is conducted, or shall be kept on the person of the mobile vendor at all times during which he/she is vending. Vendors must produce for examination all required permits upon a request by a peace officer or any officer or employee of the city who is acting in his/her official capacity.

SEC. 15.21. Transfer.

No permit issued by the city under the provisions of this article may be transferred or assigned to another person.

SEC. 15.22. Suspension or revocation of permit.

a. A mobile vending permit issued to a sidewalk vendor shall only be subject to revocation. All other mobile vending permits shall be subject to suspension and revocation.

ab. Any violation of the applicable provisions of this article by a vendor shall be grounds for suspension of the mobile vendor permit by the police chief. Violation of ~~three-four~~ (43) or more provisions of this article during the same year is grounds for revocation of the permit by the police chief.

bc. The police chief may also suspend or revoke a mobile vendor permit, except for permits issued to sidewalk vendors, if a vendor commits any act which indicates that continued business operations by the vendor in the city would present a substantial danger to the public health, safety or welfare.

de. A permit may be suspended for a period not exceeding thirty (30) days. An application for a new mobile vendor's permit shall not be accepted during the period in which the suspension is in effect. A permit may be revoked for the duration of the period for which it was issued. Excepting a mobile vending permit issued to a sidewalk vendor, if a mobile vendor permit is revoked due to violations of this article or an act of the vendor, and the vendor wishes to obtain a new permit, the vendor is not eligible to apply for a mobile vendor permit for one (1) year after the date of the revocation.

de. The police chief shall utilize the following procedures in suspending or revoking a mobile vendor permit:

1. Notice of proposed suspension or revocation/summary suspension or revocation of permit in circumstances involving danger to public health and safety.

(a) If the police chief believes that there are grounds for the suspension or revocation of any mobile vendor permit, he/she shall send a notice of the proposed suspension or revocation, which states the alleged grounds for this action and the maximum penalty which could be imposed by the city by certified mail to the mobile vendor at his/her last address on file with the vendor's permit application. This notice shall also inform the application of his/her right to request a hearing before the police chief to contest the proposed action.

(b) In circumstances in which the police chief is of the opinion that the continued business activity by the vendor would pose an imminent substantial danger to the public health or safety, or to the health and safety of the vendor, he/she may state in the notice that the suspension or revocation of the permit is effective immediately, pending the outcome of any hearing.

2. Hearing before the police chief.

(a) The vendor may request a hearing before the police chief by filing a written request with the police department within seven (7) days of the police chief's issuance of the notice of the proposed suspension of revocation.

(b) Upon receipt of a timely written request from the vendor for a hearing, the police department shall set the matter for a hearing before the police chief on a date which is at least one (1) week from the date of receipt of the vendor's request for a hearing by the police department. At the hearing, the vendor may be represented by counsel and may present relevant evidence regarding the alleged grounds for suspension or revocation of the permit.

3. **Decision by police chief.** The police chief shall notify the vendor of his/her decision on the proposed revocation or suspension in writing by certified mail by no later than two (2) weeks after the hearing. The decision of the police chief shall be final.

DIVISION 3. - OPERATIONAL REQUIREMENTS

SEC. 15.23. Generally applicable.

The following regulations shall be followed by all persons conducting business as a mobile vendor in the city on private and public property:

a. Locational requirements.

1. **Parks and playgrounds.** Mobile vendors shall not vend in any public park or playground except:

(a) as provided in Chapter 38 of the City Code;

(b) Sidewalk vendors may vend in a city-owned or operated park in accordance with the requirements of this article, during park or playground hours, except vending is prohibited in the following locations:

1.) In reserved, city-sponsored event or special event areas (including barbecue areas and athletic fields) within the reserved event area and fifty (50) feet of the reserved or event area; except when located on a public sidewalk or pathway;

2.) Fifty (50) feet, except when located on a public sidewalk; from an entry or exit to a public facility including, but not limited to, the Community Center, library, Cuesta Tennis Center, or a public swimming pool; or

3.) From public park benches or tables.

(c) Sidewalk vendors vending from any device other than from one's person shall stay on the sidewalk or paved pathway and shall not block or impede access to the sidewalk or pathway, including Americans with Disabilities Act (ADA) accessibility.

2. **Obstruction of traffic.** Mobile vendors shall not impair the free flow of traffic on the sidewalk or street. At least one-half (1/2) of the sidewalk width, but no less than four (4) feet, shall be kept unobstructed at all times. No lines, banners, ties, or any part of a vending cart, vehicle, or structure shall be connected to a public or private structure. Adequate street or public parking shall be available for customers and the vendor. Any vendor selling from a street shall occupy no more than one (1) designated vehicle parking space, shall comply with the designated parking regulations and shall vend only to customers on the sidewalk.

3. **Restroom facilities.** If parked in excess of one (1) hour, a mobile **food** vendor must have access to a restroom facility within two hundred (200) feet pursuant to Health and Safety Code Sec. 114315.

4. **Size.** Except when otherwise provided for by state or federal law, the total area occupied by any cart, vehicle or structure used for vending purposes by a mobile vendor shall not exceed forty (40) square feet, with a height not to exceed eight (8) feet, a length not to exceed ten (10) feet, and a depth not to exceed four (4) feet.

b. **Identification.** Each mobile vendor vending from a vehicle or other mobile unit shall be conspicuously identified by placing the business name and operating address on each side of the vehicle in permanent letters at least four (4) inches high.

c. **Condition of vending area/disposal of trash.** Each mobile vendor shall maintain a clean selling area and shall properly dispose of all trash generated by his/her operation. Each vending area must be cleared of all merchandise, stands, carts, vehicles or other items which belong to or are used by the vendor when not in use by the vendor.

d. **Hours of operation.** Sidewalk vendors vending in nonresidential areas shall only operate from 7:00 a.m. to 10:00 p.m. unless other businesses located on the same street are allowed to operate beyond these designated hours, in which case, a sidewalk vendor may operate during the same hours as any business allowed to operate earlier

or later than these designated hours. With the exception of mobile vendors operating in a park pursuant to Subsection (a)(1), Mobile vendors (including vendors vending in residential areas) shall only be allowed to operate between 7:00 a.m. and 10:00 p.m. Mobile vendors may operate after outside these hours (between the hours of 10:00 p.m. and 7:00 a.m.) pursuant to a temporary use permit issued under Sec. 36.46 of the city code.

e. Compliance with all applicable local, state and/or federal laws.

f. **Mobile food vendor requirements:**

1. Compliance with health requirements. All mobile food vendors shall comply with all applicable health requirements. All vehicles, mobile units and all persons operating said vehicles or other mobile units, as defined in this chapter, shall comply with all local, county and state health regulations as enforced by the county health officer.

2. **Itinerary of proposed route, etc.** Every mobile food vendor shall furnish the county health department with an itinerary of their proposed route and a schedule of timing. The itinerary shall be renewed from time to time as the route and the time may vary. This requirement is for the express purpose of facilitating inspectional procedures.

3. **Waste materials; containers.** Adequate provision shall be made for the storage of waste material in the vehicle or other mobile unit and for proper ultimate disposal. Additional containers shall be placed adjacent to the serving area and customers shall be encouraged to use them. The vehicle operator shall clean up any material left by the customer before leaving the point of sale. While in transit, the waste containers shall be stored in a compartment physically separated from all foods. Mobile food vendors shall comply with Article V of Chapter 16 of the Mountain View City Code related to use of Polystyrene foam food service ware.

4. **Dining area.** Mobile food vendors shall be considered a "dining area" for purposes of Chapter 21 of the City Code.

SEC. 15.24. Mobile vendors on private property.

a. Operation shall be limited to: (i) up to three (3) vendors operating on any individual property at the same time; (ii) total duration of mobile vending operations on any individual property of up to four (4) hours within a twenty-four (24) hour period. The total number of hours is not calculated per vendor. If four (4) or more vendors operate on any individual property at the same time or mobile vending operations exceed four (4) hours on any individual property within a twenty-four (24)

hour period, they shall be considered a special event and shall obtain approval of a temporary use permit pursuant to Sec. 15.28, Division 4 of this article.

b. Upon request, mobile vendors operating on private property shall produce written proof of property owner's consent to the mobile vendor to locate on his or her property.

c. A mobile vendor located on private property shall be considered an ancillary use if operated in conformance with this article.

d. Mobile vendors shall not operate on vacant lots, except for special events pursuant to Sec. 15.27, Division 4 of this article. A vacant lot shall mean a lot without a structure or with a structure which is not occupied by a tenant, excluding active construction sites.

e. Mobile vendors shall not consume more than twenty-five (25) percent of the available parking spaces on any property or ten (10) parking spaces, whichever is greater, unless operating as part of a special event permit pursuant to Division 4 of this chapter.

f. Mobile vendors shall not operate upon or immediately adjacent to a property used for a single-family home or duplex unless operating as part of a special event permit pursuant to Division 4 of this chapter.

g. Mobile vendors shall not operate in city-owned parking lots or structures unless the city manager or his/her designee has provided written consent or is operating as part of a special event permit pursuant to Division 4 of this chapter.

SEC. 15.25. Mobile vendors on public property.

a. The city may adopt special regulations to govern mobile vendors in the downtown area or other particular areas or districts of the city.

b. Mobile vendors shall not operate on or along any public streets or sidewalks on Castro Street, between California Street and Evelyn Avenue; on Dana Street, between Bryant Street and Hope Street; and on Villa Street, between Bryant Street and Hope Street.

c. Mobile vendors shall be at least fifteen (15) feet away from any driveway or fire hydrant, at least one hundred (100) feet away from any bus stop, and at least one hundred (100) feet away from any school facility, including playgrounds.

d. Mobile vendors shall vend at least one hundred (100) feet from any intersection.

e. Mobile vendors conducting business within one hundred (100) feet of a park may vend only on the same side of the street as the park.

SEC. 15.26. Indemnify and hold harmless.

The mobile vendor(s) and his/her agents or employees shall defend, indemnify, and hold harmless the city, its officers, employees and agents from and against all actions, losses, damages, liability, cost and expenses of every type and description, including, but not limited to, attorney fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the mobile vendor permittee or the permittee's agents, officers or employees, directly or indirectly, arising from the operation of the mobile vendor.

DIVISION 4. - SPECIAL EVENTS

SEC. 15.27. Requirements.

a. Unless otherwise specified in this article, the regulations set forth in this article shall not apply to persons conducting authorized business at events sponsored or approved by the City of Mountain View, or through a contractual arrangement with the City of Mountain View.

(1) For city-sponsored or approved events, vending on public property within the event area shall only be allowed with the sponsoring organization's permission. The sponsoring organization is the person or entity to whom the city issued a special event permit.

b. Mobile food vendors at events which are sponsored or approved by the city shall comply with the county ordinance requiring all food booths or individual food sellers to register with and acquire a permit from the county environmental health services division, and shall comply with all licensing, cleanup and health and safety regulations set forth in this code and in state and federal law.

SEC. 15.28. Temporary use permit required.

To hold a special event, as defined in Sec. 15.12 of this chapter, a temporary use permit must first be obtained pursuant to the provisions of Sec. 36.46 of the city code."

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 5. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

PdC/5/ORD
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