

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 15 OF THE  
MOUNTAIN VIEW CITY CODE RELATING TO  
FOOD ESTABLISHMENTS, RESTAURANTS, AND MOBILE VENDORS

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

Section 1. Chapter 15, Article I, Division 2, Section 15.6, of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 15.6. Required.**

No person shall operate or conduct a restaurant or food establishment or sell, offer for sale, distribute or have in possession for sale or distribution any food or drink intended for human consumption in the city unless possessing a permit to do so from the health officer and paying the permit fee required to be paid by this chapter. No permit shall be required of any food processing, cannery or other food establishment licensed by the state department of health, by the bureau of meat inspection of the state department of agriculture, or by the meat inspection division of the United States Department of Agriculture. From time to time, the health officer may adopt, implement and enforce additional rules and regulations as may be necessary to ensure the proper sanitation of all restaurants or food establishments.”

Section 2. Chapter 15, Article II, Division 1, Section 15.12, of the Mountain View City Code is hereby amended to read as follows:

**“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:

[...]

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. 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.

[...]"

Section 3. Chapter 15, Article II, Division 2, Section 15.17, of the Mountain View City Code is hereby amended to read as follows:

**"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:

[...]

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;
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 of each proposed employee/agent and 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.

[...]

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.

[...]”

Section 4. Chapter 15, Article II, Division 3, Sections 15.23 and 15.25, of the Mountain View City Code are hereby amended to read as follows:

**“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 as provided in Chapter 38 of the city code.

2. Obstruction of traffic. Mobile vendors shall not impair the free flow of traffic on the sidewalk or street. At least one-half 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 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. Mobile vendors shall only be allowed to operate between 7:00 a.m. and 10:00 p.m. Mobile vendors may operate after 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.

4. Dining area. Mobile food vendors shall be considered a "dining area" for purposes of Chapter 21 of the city code."

**"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.”

Section 5. Chapter 15, Article II, Division 4, Section 15.28, of the Mountain View City Code is hereby amended to read as follows:

**“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 6. Chapter 15, Article III, Sections 15.30 through 15.32, of the Mountain View City Code are hereby amended to read as follows:

**“SEC. 15.30. Sidewalk cafés and merchant vendors.**

a. Sidewalk cafés shall be allowed to operate in the downtown area pursuant to Sec. 36.42 et seq. of Chapter 36 of the zoning code.

b. Merchant vendors must obtain a development review permit and operate within the flexible zone as defined by Sec. 36.42.05(b)of the zoning code.

**SEC. 15.31. Regulations for merchant vendors in the downtown area.**

a. Development review permit and city business license required. No person shall conduct business as a merchant vendor, as defined in Sec. 15.29, without first obtaining a city business license from the city’s finance department and a development review permit in accordance with this section and Sec. 36.44.45 et seq. of the city code.

b. Procedure for obtaining permits for merchant vendors.

1. Application. Any person who wishes to conduct business as a merchant vendor may apply for a development review permit by submitting the following to the community development department:

(a) A completed planning application;

(b) A list of items proposed to be sold;

- (c) A site plan showing the proposed location of the merchant vendor's display;
- (d) Elevation drawings showing the proposed product display and signage;
- (e) Maintenance and operations plans, including hours of operation;
- (f) A city hold-harmless and waiver agreement executed by the applicant;
- (g) The applicant's city business license number;
- (h) The number of the applicant's resale license issued by the State Board of Equalization;
- (i) A statement signed by the applicant which provides that he/she agrees to comply with all laws while conducting business in the city and to collect and remit state sales tax on all sales made in the city;
- (j) If the merchant vendor plans to sell or offer for sale food or drink from his/her outdoor site on the flexible zone, the number of his/her county health permit;
- (k) Insurance documents as required by Sec. 15.31.c;
- (l) Application filing fee, as determined by resolution of the city council; and
- (m) Any other information requested by the zoning administrator to evaluate the application.

2. Application review and decision. The zoning administrator shall review all completed submitted applications and other documents pursuant to the development review administrative procedures set forth in Sec. 36.44.65. Approval of an application shall be determined subject to Sec. 36.44.70 and the following:

- i. That the applicant has complied with all applicable requirements of this code, the city's flexible zone guidelines, and state and federal law;
- ii. That the design, location, and layout of the proposed display and/or pushcart is consistent with the character of the downtown area; and

iii. That the proposed vending operations will enhance the downtown area and benefit the community, and will not pose a danger to the public health, safety, or welfare.

Written notice of the decision of the zoning administrator shall be sent to the applicant by certified mail.

3. Appeal to city council. A merchant vendor may appeal to the city council the decision of the zoning administrator pursuant to Sec. 36.56 et. seq.

4. Permit application fee. The city may require merchant vendor applicants to pay a fee to cover the costs of processing their applications for a development review permit. The amount of the fee shall be established by resolution of the council.

c. Insurance requirements. Prior to receiving a development review permit from the city, the merchant vendor must submit to the zoning administrator a certificate of insurance which shows that the merchant vendor is covered by general liability insurance in an amount of not less than one million dollars (\$1,000,000) as a combined single limit for personal injury (including death) and property damage, an endorsement naming the City of Mountain View, its council, boards, commissions, officers, employees, volunteers, agents and employees as additional insureds, and a copy of the declarations or information page(s) for the policy. The general liability insurance shall cover the property on which the merchant vendor will conduct vending operations.

If the merchant vendor is required by law to have workers compensation insurance, he/she shall also submit to the community development department for approval a certificate of insurance which shows coverage in at least the statutorily required amount, along with a copy of the declarations or information page(s) for the policy prior to obtaining a merchant vendor permit.

All insurance documents and coverage must be approved by the city before the issuance of a merchant vendor permit.

d. Vending sites for downtown merchant vendors. Upon approval of the zoning administrator, a merchant vendor may establish a vending operation in front of his/her business in Area 1 of the flexible zone, as defined in Sec. 36.42.05(b) of the city code.

Vending sites for merchant vendors shall comply with the following minimum dimensions:

1. Four (4) feet wide along Area 1 of the flexible zone;
2. Four (4) feet deep from the building entrance/exit;



3. Fifteen (15) feet radial from the corner intersections; and
4. Five (5) feet clear around city planters, bus shelters, trash containers and kiosks.

e. Type of merchandise permitted. Except as otherwise prohibited by law, merchant vendors may sell or offer for sale items of the same type as the merchandise sold in their previously established businesses at the site. Merchandise sold by merchant vendors must be of a type which can be hand-carried by customers, involves a short transaction period, may be sold or offered from a vending pushcart or similar display, and does not pose a danger to the public health, safety, or welfare.

f. Vending displays and signage. Merchant vendors shall attractively display merchandise in a manner which calls attention to the offered products. Displays using card tables, cardboard cartons, plastic milk cases, or plywood boxes are unacceptable.

All signs shall be attractively designed to enhance the product display. Signs shall be contained within the display and not project beyond its perimeter.

g. Maintenance and operations. The merchant vendor shall maintain the display and vending site in an attractive and safe manner, and shall remove the display setup when the business is closed.

The merchant vendor shall maintain his/her site and surrounding area in a clean and safe condition at all times and shall properly dispose of all trash and water generated by the operation.

h. Permanent changes to flexible zone prohibited. It shall be unlawful for any merchant vendor to make any permanent changes to the flexible zone, such as bolting items to the ground.

i. Outdoor vending limited to designated sites. It is prohibited for any merchant vendor to vend outdoors in any part of the downtown area other than the vending site in front of his/her established indoor business as authorized by the zoning administrator pursuant to the grant of a development review permit, unless the merchant vendor has also obtained a permit from the city to also operate as a mobile vendor.

j. Permits nontransferable/valid for up to one year. Notwithstanding any other provisions of this code, development review permits are nontransferable, and, unless otherwise suspended or revoked pursuant to Sec. 15.32 shall remain valid for one (1) year from the date of their issuance.

k. Renewal of merchant vendor permits. Each merchant vendor who wishes to continue vending operations in the downtown area beyond the term of his/her development review permit shall submit a new application for a development review permit to the community development department in the manner required by Sec. 15.31(b). The application shall be granted or denied according to the procedures set forth in Sec. 15.31(b).

Notwithstanding the foregoing, nothing in this section shall permit a merchant vendor whose permit has been revoked pursuant to Sec. 15.32 to apply for a new or renewed permit during the one-year period after the effective date of the revocation.

**SEC. 15.32. Suspension/revocation of development review permit.**

a. Any violation of the applicable provisions of this code by a merchant vendor shall be grounds for suspension of the development review permit by the zoning administrator. Violation of three or more provisions of this article during the same year or any act by the vendor which indicates that his/her continued business in the city presents a substantial danger to the public health, safety, and welfare is grounds for revocation of the permit by the zoning administrator.

b. The zoning administrator shall comply with the following procedures in suspending or revoking a development review permit:

1. Notice of proposed suspension or revocation/summary suspension or revocation of permit in circumstances involving danger to public health and safety. If the zoning administrator believes that there are grounds for the suspension or revocation of any development review permit, he/she shall send by certified mail or deliver in person to the permit holder 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. This notice shall inform the permit holder of his/her right to request a hearing before the zoning administrator to contest the proposed suspension or revocation.

In circumstances in which the zoning administrator believes that continued business activity by the merchant vendor would pose a substantial danger to the public health or safety, 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 zoning administrator. The merchant vendor may request a hearing before the zoning administrator by filing a written request with the

community development department within seven (7) days of the city's issuance of the notice of the proposed suspension or revocation of the permit.

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

3. Decision by zoning administrator. The zoning administrator shall notify the permit holder 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 zoning administrator is appealable to council pursuant to Sec. 36.56.50."

Section 7. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 8. 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 9. 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 10. 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).

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NCW/7/ORD/012-05-27-14o