

ORDINANCE NUMBER 1388

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, RETITLING PERRIS MUNICIPAL CODE CHAPTER 5.06; AMENDING PERRIS MUNICIPAL CODE SECTIONS 5.06.010, 5.06.030, 5.06.150, 5.06.300; REPEALING PERRIS MUNICIPAL CODE SECTIONS 5.06.660, 5.06.690, 5.06.720, AND 5.04.120 REGARDING REGULATIONS OF SALES OF MOBILE FOOD FACILITIES AND REGULATION OF SALES FOR PEDESTRIAN FOOD VENDORS; AMENDING PERRIS MUNICIPAL CODE SECTION 5.06.750; AND ADDING PERRIS MUNICIPAL CODE CHAPTERS 5.17 TO REGULATE FOOD TRUCK OPERATORS AND 5.18 TO REGULATE SIDEWALK VENDORS.

WHEREAS, the City of Perris currently regulates businesses within its jurisdiction pursuant to Title 5 of the Perris Municipal Code; and

WHEREAS, in addition to the regulations imposed by Chapter 5.04 of Title 5 of the Perris Municipal Code, the City Council desires to impose additional regulations upon Food Trucks operating within the City of Perris consistent with the requirements of State law; and

WHEREAS, Section 22455 of the California Vehicle Code allows municipalities to regulate mobile food vending in order to protect public safety and Article XI, Section 7 of the California Constitution extends to municipalities the police power authority to regulate the time, place, and manner of vending from mobile food facilities to protect public safety; and

WHEREAS, the City of Perris finds that mobile food facilities, also commonly known as food trucks, have the potential to pose traffic hazards and special dangers to the public safety of the community; and

WHEREAS, food trucks create the potential for safety hazards, such as blocking sight distances at intersections and crosswalks, encouraging pedestrians and children to cross streets mid-block to reach a vending vehicle, and causing additional conflicts between drivers and pedestrians; and

WHEREAS, operators of food trucks who fail to park their vehicles correctly during a transaction attract prospective buyers onto public roadways, create further traffic and public safety hazards; and

WHEREAS, operators of food trucks who park their vehicles on undeveloped lots create public safety issues because such lots often lack necessary infrastructure improvements such as fire hydrants for fire protection purposes, lighting for nighttime visibility or proper curb-cuts, transition lanes, or traffic signals to provide safe ingress or egress onto a public roadway from such lots; and

WHEREAS, operators of food trucks who park their vehicles within one thousand feet of a school during school hours (6:30 am to 5:30 pm) will create further traffic and public safety hazard as there is a significantly greater concentration of students/pedestrian traffic during this time that will create further traffic and public safety issues;

WHEREAS, the City Council desires to update its regulations for food trucks by adding Chapter 5.17 to Title 5 of the Perris Municipal Code to provide food trucks with clear and concise regulations to prevent safety and traffic hazards, as well as to preserve the public safety of the community and to make the corresponding necessary changes to the Perris Municipal Code;

WHEREAS, Senate Bill No. 946 (commencing at Government Code Section 51036 et seq.) provides guidelines and requirements for any regulations imposed by the City upon Sidewalk Vendors, as that term is defined by Senate Bill No. 946, and the City Council desires to adopt regulations consistent with Senate Bill No. 946 by adding Chapter 5.18 to Title 5 of the Perris Municipal Code;

WHEREAS, Sidewalk Vendors operating within the City without the regulations contemplated by this Ordinance present health, safety, and welfare concerns including, but not limited to, the following concerns:

A. Sidewalk vendors who operate without permits from the County of Riverside Department of Environmental Health may not have proper sanitation protocols in place or oversight necessary to ensure proper handling of food that may result in contamination resulting in negative impacts upon public health, safety, or welfare.

B. Sidewalk vendors who park their carts near driveways, walkways, and sidewalks will impede pedestrian movement such that it can negatively impact the public's use and enjoyment of natural resources and recreational opportunities, and potentially negatively impact the ingress and egress of motor vehicles from such driveways.

C. Sidewalk vendors who operate near an ongoing certified farmers market or swap meets create an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.

THE CITY COUNCIL OF THE CITY OF PERRIS HEREBY ORDAINS AS FOLLOWS:

Section 1. Recitals Incorporated. The foregoing Recitals are true and correct and are incorporated herein as if set forth in full.

Section 2. The City Council of the City of Perris finds that the adoption of this Ordinance is not a "project" for the purposes of CEQA Guidelines Section 15378, as the

amendments provide for a regulatory permitting and related administrative procedures that will not result in direct or indirect physical changes in the environment. Additionally, even if this Ordinance is a “project” for the purposes of CEQA, it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. Therefore, this matter is not subject to CEQA.

Section 3. Retitling of Chapter 5.06. Chapter 5.06, “Peddlers and Solicitors,” of Title 5 of the Perris Municipal Code shall be retitled as follows:

“Chapter 5.06 – Solicitors”

Section 4. Amendment to Section 5.06.010. Section 5.06.010, “Definitions,” is hereby amended as follows (~~strikethrough~~ is deleted language while ***bold italics*** is added language):

“The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Peddler* means a hawker, vendor or other person who, without appointment thereat, goes from house to house, place to place or in or along the streets of the city selling and making immediate delivery, or offering for sale and immediate delivery any goods, wares, merchandise or anything of value in the possession of the pedler to persons other than manufacturers, wholesalers, jobbers or retailers in such commodities.~~

~~*Pushcart* means any wagon, cart, or similar wheeled container, not a vehicle as defined in the vehicle code for the state, from which food or beverage is offered for sale to the public.~~

Solicitor means a person engaged in soliciting, canvassing, or taking orders from house to house or from place to place or by telephone or by any other means of communication for any goods, wares, merchandise, or any article to be delivered in the future or for services to be performed in the future or making, manufacturing, or repairing any article whatsoever for future delivery or subscriptions to periodicals or tickets of admission or entertainment or membership in any club.”

Section 5. Amendment to Section 5.06.030. Section 5.06.030, “License—Required,” is hereby amended as follows (~~strikethrough~~ is deleted language while ***bold italics*** is added language):

“No person, whether or not a resident of the city, or whether or not the person maintains or is employed at an established place of business, shall engage in the city in the business of ~~peddler or solicitor~~ without first obtaining a license therefor, with the exception of charitable, religious and nonprofit organizations as set forth in section 5.06.330.”

Section 6. Amendment to Section 5.06.150. Section 5.06.150, “Same--Badges,” is hereby amended as follows (~~strikethrough~~ is deleted language while ***bold italics*** is added language):

“The finance director shall issue to each licensee at the time of delivery of his license a badge, which shall be worn continuously by the licensee on the front of his hat or outer garment in such a way as to be conspicuous at all times while the licensee is conducting business in the city pursuant to such license. The badge shall bear the appropriate words, i.e., "licensed solicitor," ~~or "licensed peddler"~~ the period for which the license is issued, the number of the license in letters and figures clearly discernible. Each licensee shall provide a two-inch by two-inch color passport photograph at the time of issuance of the license for purpose of affixing to said badge for identification.”

Section 7. Amendment to Section 5.06.300. Section 5.06.300, “Same--Fees,” is hereby amended as follows (~~strikethrough~~ is deleted language while ***bold italics*** is added language):

- “(a) At the time the application is filed with the finance department, the applicant shall pay a fee sufficient to cover the cost the city incurs for processing the application, including all costs incidental to the issuance of the license, as well as investigation, inspection, administration, regulation, maintenance of a system of supervision and enforcement.
- (b) The amount of the fee for this license shall be that amount established for businesses with no fixed location which amount shall be set by resolution of the city council, as amended from time to time.
- (c) Each individual ~~peddler,~~ ~~or~~ solicitor whether or not such person maintains or is employed by a business which has a business license from the city, must obtain his own individual license in order to engage in business in the city.
- (d) Senior citizens over the age of 65, juveniles under the age of 18, and veterans physically unable to obtain livelihood by manual labor who qualify under sections 16001 and 16001.5 of the California Business and Professions Code shall be exempt from paying such fee.”

Section 8. Repeal of Sections 5.06.660, 5.06.690, 5.06.720, and 5.04.120. Sections 5.06.660, “REGULATIONS FOR SALES,” 5.06.690, “REGULATION OF SALES FOR PEDESTRIAN FOOD VENDORS,” 5.06.720, “PUSHCART REGULATIONS,” of Chapter 5.06, and Section 5.04.120, “PERMIT; FOOD VEHICLE,” of Chapter 5.04 of Title 5 of the Perris Municipal Code are hereby deleted.

Section 9. Section 5.06.750, “EXEMPTIONS FROM THIS CHAPTER,” of Chapter 5.06 of Title 5 of the Perris Municipal Code is hereby amended as follows (~~struckthrough~~ is deleted language while ***bold italics*** is added language):

- “(a) The provisions of this Chapter shall not apply to:
- (1) Merchants and their employees and agents selling or soliciting at established places of business;
 - (2) Persons invited to call upon private residences by the owner or occupant thereof;
 - (3) Persons licensed and regulated by the state pursuant to sections 12000 et seq. of the Business and Professions Code of the state;
 - (4) Persons selling or soliciting sales of a daily or weekly newspaper as defined in section 6040.5 of the Government Code of the state;
 - (5) Persons soliciting or canvassing for or against any candidate for public office or any ballot measure;
 - (6) Persons soliciting goods to be shipped from outside the state;
 - (7) Seasonal sales of merchandise in the CC and CN zones with a commercial temporary use permit, not to exceed 30 consecutive days;
 - (8) ~~Sales from parked vehicles in public streets in residential areas in accordance with Vehicle Code section 22455, except with the regulation regarding time and manner of operation set forth in section 5.06.450.~~ ***“Food Truck” as defined in Chapter 5.17 of Title 5 of the Perris Municipal Code.***
 - (10) ***Roaming Sidewalk Vendors as defined in Chapter 5.18 of Title 5 of the Perris Municipal Code.***
 - (11) ***Sidewalk Vendors as defined in Chapter 5.18 of Title 5 of the Perris Municipal Code.***
 - (12) ***Stationary Sidewalk Vendor as defined in Chapter 5.18 of Title 5 of the Perris Municipal Code.***
- (b) Nothing in subsection (a) of this section shall eliminate the responsibility of participants or vendors to comply with other applicable provisions of this Code or laws of the state relating to the conduct of business or sales within

the city, or the requirements imposed by the city for rental of spaces or booths at any of the events listed in subsections (a)(1) through (6) of this section.”

Section 10. Title 5 of the Perris Municipal Code is hereby amended to add the following Chapter 5.17:

“Chapter 5.17. - Food Trucks

5.17.010 - Purpose.

The purpose of this Chapter is to regulate mobile food truck activities in order to protect public safety while accommodating commercial uses that generally promote an active and social pedestrian environment within appropriate areas of the City of Perris. The requirements provided by this Chapter are in addition to any other requirement under any applicable law, including but not limited to Chapter 5.04 of Title 5 of the Perris Municipal Code.

5.17.020 Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Food Truck” shall mean any motorized device or vehicle by which any person or property may be propelled or moved upon a highway, or which may be drawn or towed by a motorized vehicle, from which food or food products are sold, offered for sale, displayed, bartered, exchanged or otherwise given. This definition shall exclude Sidewalk Vendors, Roaming Sidewalk Vendors, and Stationary Sidewalk Vendors as defined in Section 5.18.020.

“Food Truck Event” shall mean an organized gathering of Food Truck vendors which is open to the general public.

“Food Truck License” shall mean a business license issued for the purpose of mobile vending pursuant to this Chapter.

“Property Owner” shall mean the holder of fee title to a property, whether a person, partnership, corporation or other entity recognized by law, and his/her/its lessees, permittees, assignees or successors in interest.

“Public Property” shall mean any real property owned, leased, operated, or controlled by the City of Perris other than a street, alley, parkway, sidewalk or other area dedicated, identified or used as a public right-of-way.

“Public Right-of-Way” shall mean any public street, road, avenue, highway, named or unnamed alley, lane, court, place, trail, parkway, sidewalk or other public way, operated and/or controlled by the City or other public entity, or subject to an easement owned by or dedicated or granted to the City.

“Temporary Activity and Use” shall mean a Temporary Outdoor Activity or Temporary Use as defined by Chapter 19.60.

“Undeveloped Lot” shall mean a parcel of property as shown on a delineated parcel of land with a separate and distinct number or other delineation on a plat recorded in the office of the county recorder of Riverside County, which is undeveloped and without any improvements necessary to provide utilities to the parcel, fire hydrants within proximity to serve the parcel, adequate street lighting adjacent to the parcel, curb cuts adjacent to the parcel, paved driveways to serve the parcel, or any other similar type of improvements.

5.17.030 - Food Truck License.

- (a) No person shall conduct a Food Truck operation within the City of Perris, without first obtaining a Food Truck License pursuant to this Chapter from the City, except in the following situations:
 - (1) No Food Truck License shall be required when the Food Truck activity is associated with the operation of a City-permitted Temporary Activity and Use, subject to the conditions thereof.
 - (2) No Food Truck License shall be required when the Food Truck activity is limited to a single Food Truck on private property operating solely for private catering purposes and when all of the following provisions are met:
 - (i) The Food Truck is situated entirely on private property.
 - (ii) Service is limited to the guests of the catered event only.
 - (iii) No payment transactions shall occur for individual orders taken by the Food Truck operator.

5.17.040 – Application.

- (a) The application for a Food Truck License shall be signed by the applicant and, in addition to the applicable information required under Chapter 5.04, shall include all of the following information:

1. A description of the type of food, beverage, or merchandise to be sold, as well as hours of operation;
 2. A description of the Food Truck, and any additional information that will explain the proposed use;
 3. A description and photograph (including colors and any signs) of any Food Trucks to be used in the operation of the business;
 4. Valid permit, certificate, or other authorization as required by the County of Riverside Department of Environmental Health;
 5. Payment for any fees established pursuant to this Chapter.
 6. Ownership type (e.g., sole proprietorship, partnership, or corporation);
 7. A declaration under penalty of perjury that the forgoing and the applicable information required to be provided under Chapter 5.04 is, to the best of applicant's knowledge and belief, true and correct, and that applicant has read the application and understands all the conditions as stated therein.
- (b) Information provided in the application will become a matter of public record and will be subject to disclosures, with the exception of Social Security or federal employer identification numbers and any other exceptions permitted by law.
- (c) Not later than 10 days after the filing of a completed application for a Food Truck License, the applicant shall be notified of the decision on the issuance or denial of the license, provided that the City may extend this time period upon notice to the applicant. Fees shall be paid prior to issuance of a permit.

5.17.050 - Health Permit Requirement.

It is unlawful for any person to engage in the activity of operating a Food Truck in the City of Perris without a valid permit, certificate, or other authorization as required by the County of Riverside Department of Environmental Health. A copy of said permit shall be kept in the Food Truck and shall be visible at all times. All food products sold or provided from a Food Truck shall comply with all applicable food labeling requirements established by the State of California.

5.17.060 – General Operational Standards for Food Trucks.

- (a) No Food Truck shall operate before 7:00 a.m. or after 2:00 a.m., including setup and clean-up, except for private catering functions or special events as described in Section 5.17.030.
- (b) No Food Truck shall operate within two-hundred fifty (250) feet of any off-street Food Truck Event or City-permitted Temporary Activity and Use. Exceptions to this prohibition are allowed when consent is provided within the Temporary Activity and Use permit or permits. In this case, all standards and conditions required by Section 5.17.080 of this Chapter shall apply.
- (c) Food Trucks shall not idle vehicle engines more than five (5) minutes during any one (1) hour time period.
- (d) Food Truck operators shall be responsible for controlling smoke and odors caused by food preparation so as to avoid a public nuisance.
- (e) The operation shall at all times comply with the provisions of the City's Noise Control Ordinance, Chapter 7.34 of Title 7 of the Perris Municipal Code and Section 5.06.450 of Chapter 5.06 of Title 5 of the Perris Municipal Code.
- (f) No temporary lighting shall be provided on the site where the Food Truck is operating, except that localized lighting may be used on or in the Food Trucks for the purpose of inside food preparation and menu illumination, except as otherwise permitted for a Temporary Activity and Use.
- (g) No signage other than that exhibited on the Food Truck may be displayed at the site where the Food Truck is operating. The prohibition shall include any handheld signage and handbills.
- (h) No sales or service of alcohol shall be allowed by Food Trucks unless the Food Truck is duly authorized and licensed by the California Department of Alcohol Beverage and Control to sell or serve alcohol.
- (i) Food Trucks shall comply with all applicable laws, including but not limited to the Perris Municipal Code, State and federal laws.
- (j) The Food Truck operator shall maintain and supply to the City, copies of policies of commercial general liability and automobile liability, in an amount of no less than \$1,000,000 per occurrence, naming the City as an additional insured.
- (k) Food Trucks shall not operate on any Undeveloped Lot within the City except as part of a City-permitted Temporary Activity and Use.

- (l) Food Trucks shall provide refuse and recycling containers during all hours of Food Truck operations.
- (m) Food Trucks shall be stored in a garage or such other licensed storage facility authorized to store Food Trucks during a Food Truck's regular hours of nonoperation.
- (n) Food Trucks shall not park on streets where parking of vehicles is prohibited.

5.17.070 - Food Trucks on Private Property.

Food Trucks may operate on private properties pursuant to the following additional minimum standards and conditions:

- (a) A minimum of two (2) off-street parking spaces shall be provided for each Food Truck. The parking required herein shall not be reserved, encumbered, or designated to satisfy the off-street parking of another business or activity that is operating on the site at the same time as the Food Truck.
- (b) Additional separate refuse and recycling containers shall be provided on-site during all hours of Food Truck operations. All litter generated within a minimum of a one-hundred (100) foot radius of the site shall be collected prior to closure of the Food Truck operations.
- (c) No overnight parking of Food Trucks shall be allowed on the permitted vending site located on the private property.
- (d) A maximum two-hundred (200) square foot, uncovered seating area may be provided to serve patrons of the Food Truck. All seating areas shall be removed prior to close of business for the day. The seating shall be located in an area of the site that is not landscaped, reserved, encumbered, or designated to satisfy the off street parking of a business or activity that is operating at the same time as the Food Truck, and shall not obstruct any pedestrian or vehicular traffic.
- (e) Permission from a private property owner to operate on the private property. The Food Truck shall bear the burden of showing compliance with this requirement.
- (f) The Food Truck operator shall properly dispose of solids or liquids consistent with applicable law, and shall not dispose of solids or liquids by discharging such solids or liquids into the Public Right-of-Way and storm drains.

5.17.080 - Food Trucks on Public Right-of-Way.

Food Trucks may operate in any legal parking space, provided they comply with all of the following minimum standards and conditions:

- (a) Food Trucks shall be parked directly adjacent to a paved sidewalk, free and clear for pedestrian passage.
- (b) Food service shall be limited solely to that side of the Food Truck facing the adjacent sidewalk.
- (c) The Food Truck shall be in full compliance with all parking and Vehicle Code provisions which apply to the location at which it is parked, including the maximum allowed parking time limit for the parking space(s) occupied.
- (d) The Food Truck operations shall not obstruct pedestrian or vehicular traffic.
- (e) The Food Truck operator shall not encroach onto a public sidewalk with any part of the vehicle or any other equipment or furniture related to the operation of its business, except for required refuse and recycling receptacles, provided they maintain a clear four (4) foot pedestrian walkway.
- (f) No Food Truck operator shall conduct business unless he or she maintains clearly designated refuse and recycling receptacle(s) in the immediate vicinity of the vehicle. Such receptacles shall be marked with a sign requesting use by patrons. Prior to leaving a location or moving the Food Truck more than fifty (50) feet, the Food Truck Operator shall pick up, remove and dispose of all trash generated by the Food Truck operations within one-hundred (100) feet of the Food Truck.
- (g) No Food Truck shall operate in such a way so as to cause an unacceptable reduction in sight distance, as provided in the latest edition of the California Department of Transportation's Highway Design Manual, for any cross street, crosswalk, driveway or any other similar location where traffic, be it vehicular, pedestrian or bicycle, can be expected to enter the street.
- (h) Food Trucks shall not operate upon any public street within one thousand (1,000) feet of the nearest property line of any property on which a school is located during the school hours between the hours of six thirty a.m. (6:30 a.m.) and five thirty p.m. (5:30 p.m.), as may be amended by such schools, of any school day. This prohibition will not apply if the school principal gives the Food Truck written permission to park on school property. The

Food Truck shall provide a copy of that authorization to the City within five (5) days of its receipt prior to operation.

- (i) The Food Truck operator shall not discharge solids or liquids to the street or a storm drain.

5.17.090 - Fees.

An application fee set by resolution of the city council shall be required for formal processing of every application made under this Chapter. The city council is authorized to pass resolutions to recover any and all fees and costs incurred by the administration and implementation of this Chapter through an appropriate fee recovery mechanism.

5.17.100 – Permit Term; Renewal

All permits are valid for one year unless revoked or suspended prior to expiration. An application to renew a permit shall be made not later than 90 days before the expiration of the current permit.

5.17.110. - Appeals.

- (a) Any decision regarding approval, conditional approval, denial, suspension or revocation of a Food Truck License may be appealed to the City Manager, or his or her designee, by an applicant, a permit holder or interested party as follows:
 - (1) If the appellant wishes to appeal a decision to the City Manager, or his or her designee, the appellant must file a written appeal with the Perris City Clerk within ten calendar days of the decision. The written appeal shall specify the person making the appeal, the decision appealed from, shall state the reasons for the appeal, and shall include any evidence in support of the appeal which the applicant seeks to be considered by the City Manager, or his or her designee. The written appeal shall also include an appeal fee as set by resolution of the city council.
 - (2) Notice of the time and place of an appeal hearing shall be providing to the appellant within 30 days of receipt by the Perris City Clerk of the written appeal.
 - (3) The appeal hearing shall be held within 60 days of the filing of the written appeal with the Perris City Clerk, unless the 60 day time limit is waived by the appellant, or unless the City Manager, or his

or her designee, continues the appeal hearing date for a good cause and upon written notification to the appellant.

- (4) The City Manager, or his or her designee, shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determines whether the appealed decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final unless appealed as provided for below.
- (5) If the appellant wishes to appeal the determination of the City Manager, or his or her designee, then the procedures provided in this section shall be followed for an appeal to the city council, with the exception of the city council may determine to simply affirm by minute order or resolution the determination of the City Manager, or his or her designee, without review, within 60 days of receipt by the Perris City Clerk of the written appeal. Any determination of the city council shall be final.
- (6) The provisions of section 1094.6 of the Code of Civil Procedure sets forth the procedure for judicial review of any final determination. Parties seeking such judicial review shall file such action within 90 days of a determination being made final.

5.17.120. - Service of notices.

All notices required by this Chapter are deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed (if to an applicant, a Food Truck operation, or an appellant) to the applicant or Food Truck at the mailing address identified in its application, the last updated address on file with the director's office, or the mailing address on the appeal form; or, the date upon which personal service of the notice is provided to a responsible party.

5.17.130 - Penalty for Violation.

- (a) Any violation of the provisions of this Chapter, at the discretion of the city prosecutor, is punishable as a misdemeanor or an infraction pursuant to Chapter 1.16 of the Perris City Code, except for as preempted by state law; and, any violation of the provisions of this Chapter is subject to administrative citation, at the discretion of the city, pursuant to Chapter 1.18 of the Perris City Code.

- (b) Public Nuisance. Any Food Truck that is conducted in violation of any provisions of this Chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 7.06 of the Perris City Code. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person causing the nuisance, including the Food Truck permittee and the property owner where the nuisance is occurring.
- (c) The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude city from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.
- (d) Any violation of the provisions of this Chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.”

Section 11. Chapter 5.18, “SIDEWALK VENDING,” is hereby added to Title 5 of the Perris Municipal Code as follows:

“Chapter 5.18. - Sidewalk Vending

5.18.010 - Purpose.

The purpose of this Chapter is to regulate sidewalk vending activities in order to protect public health, safety, and welfare; to ensure the public’s use and enjoyment of natural resources and recreational opportunities; and to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the City’s park while accommodating commercial uses that generally promote an active and social pedestrian environment within appropriate areas of the City of Perris.

5.18.020 - Definitions.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Certified farmers’ market” shall have the same meaning as “certified farmers’ market” as provided in Government Code Section 51038(d)(1), as it may be amended, which is defined as “a location operated in accordance with Chapter 10.5

(commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.”

“Roaming Sidewalk Vendor” shall have the same meaning as provided in Government Code Section 51036(b), as it may be amended, which is defined as “a sidewalk vendor who moves from place to place and stops only to complete a transaction.” This shall not include Mobile Food Facilities as defined by Chapter 5.17.

“Sidewalk Vending License” shall mean a business license issued for the purpose of Sidewalk Vending pursuant to this Chapter.

“Sidewalk Vending Vehicle or Pushcart” shall mean a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.

“Sidewalk Vendor” shall have the same meaning as provided in Government Code Section 51036(a), as it may be amended, which is defined as “a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.” This shall not include Mobile Food Facilities as defined by Chapter 5.17.

“Stationary Sidewalk Vendor” shall have the same meaning as provided in Government Code Section 51036(c), as it may be amended, which is defined as “a sidewalk vendor who vends from a fixed location.” This shall not include Food Trucks as defined by Chapter 5.17.

“Swap meet” shall have the same meaning as “swap meet” as provided in Government Code Section 51038(d)(1), which is defined as “a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.”

“Temporary Activity and Use” shall have the same meaning as the term “temporary special permit” is defined by Government Code Section 51038(d)(2), as it may be amended, which is defined as “a permit issued by the local authority for the temporary use of, or encroachment on, the sidewalk or other public areas, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts.” “Temporary Activity and Use” shall also include, but is not limited to, those temporary activities and uses regulated pursuant to Chapter 19.60.

5.18.030 - Sidewalk Vending License.

No person shall operate as a Sidewalk Vendor within the City of Perris without first obtaining a Sidewalk Vending License from the City, except under the following conditions:

- (a) A Sidewalk Vending Vehicle or Pushcart owned or operated by any public agency;
- (b) Persons delivering goods, wares, merchandise, fruits, vegetables, or foodstuffs upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution;
- (c) Vendors participating in farmers markets or other special events as allowed by the city;
- (d) An event at a school facility or an assembly use facility, if the vendor is operating in partnership with the organization conducting the event and is located on the site of the event (i.e., not in the public right-of-way);
- (e) Sidewalk Vendors that only sell, distribute, display, solicit, or offer sale of items that are inherently communicative and have nominal utility apart from its communication (e.g., newspapers, leaflets, pamphlets, buttons, etc.).

5.18.040 - License Term and Renewal.

All permits are valid for one year unless revoked or suspended prior to expiration. An application to renew a permit shall be made not later than 90 days before the expiration of the current permit.

5.18.050 - Application.

- (a) The application for a Sidewalk Vending License shall be signed by the applicant and shall include the following information:
 - 1. The name and current mailing address of the applicant;
 - 2. A description of the type of food, beverage, or merchandise to be sold, as well as hours of operation and a description of the cart, and any additional information that will explain the proposed use;
 - 3. A description and photograph (including colors and any signs) of any stand to be used in the operation of the business;
 - 4. If the applicant is an agent of an individual, company, partnership, or corporation, then the name and business address of the principal;

5. The applicant shall be encouraged to maintain adequate insurance to cover his or her business operations. However, the applicant shall not be required to maintain such insurance. If such insurance is maintained, then proof of the insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee and the city from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name as additional insured the city and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days advance written notice to the city.
 6. Payment for any fees established pursuant to this Chapter.
- (b) Not later than 10 days after the filing of a completed application for a Sidewalk Vending License, the applicant shall be notified of the decision on the issuance or denial of the Sidewalk Vending License, provided that the City may extend this time period upon notice to the applicant. Fees shall be paid prior to the issuance of a permit.

5.18.060 – General Operational Requirements for Sidewalk Vending.

- (a) All Sidewalk Vendors shall comply with the following operational requirements:
1. All equipment installed in any part of the cart shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
 2. If applicable, all utensils shall be securely stored in order to prevent their being thrown from the cart or vehicle in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives.
 3. If applicable, compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters, and similar equipment shall be installed so as to be hidden from view to the extent possible and be easily accessible.
 4. Sidewalk Vendors must possess a valid permit, certificate, or other authorization as required by the County of Riverside Department of Environmental Health if the Sidewalk Vendor intends to sell food or any other item requiring a county Department of Environmental Health permit.

5. Sidewalk Vendors shall properly dispose of solids or liquids consistent with applicable law, and shall not dispose of solids or liquids by discharging such solids or liquids into the Public Right-of-Way and storm drains.
 6. Operate within five hundred (500) feet of a certified farmers' market or swap meet during the operating hours of that certified farmers' market or swap meet.
 7. Operate within five hundred (500) feet of any public sidewalk, street, right-of-way, or other public property approved for commercial filming or a temporary event or festival.
 8. If operating on Public Property other than City parks, the Sidewalk Vendor shall provide evidence of the Public Property owner's written authorization.
 9. If operating in a state right-of-way, the Sidewalk Vendor shall provide evidence of the state's authorization.
 10. Sidewalk Vending Vehicle or Pushcart shall be stored in a garage or such other licensed storage facility authorized to store Sidewalk Vending Vehicles or Pushcarts during a Sidewalk Vending Vehicle's or Pushcart's regular hours of non-operation.
- (b) All permits shall be displayed in a visible and conspicuous location at all times during the operation of the vending business.

5.18.070 - Stationary Sidewalk Vendor Operational Standards.

In addition to the operational requirements under Section 5.18.060, Stationary Sidewalk Vendors shall not operate under any of the following conditions:

- (a) Leave any stand unattended;
- (b) Store, park, or leave any stand overnight on any public street, sidewalk, or park;
- (c) Sell food or beverages for immediate consumption unless there is a litter receptacle available for patrons' use;

- (d) Leave any location without first disposing of all trash or refuse remaining from sales conducted. Trash and refuse generated by the vending cart operations shall not be disposed of in public trash receptacles;
- (e) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand;
- (f) Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her stand where such terms have not been described by his or her application;
- (g) Sell anything other than that which he or she is permitted to sell;
- (h) Sound or permit the sounding of any device that produces any noise in violation of the city's Noise Control Ordinance, Chapter 7.34;
- (i) Operate within fifty (50) feet of a fire hydrant or twenty-five (25) feet of a transit stop;
- (j) Operate within fifty (50) feet of the outer edge of a driveway or vehicular entrance to public or private property in commercial, business park, mixed-use, or industrial zones;
- (k) Vend from the exposed street or alley and/or traffic side of the vending cart;
- (l) Operate in a manner that does not maintain at least four (4) feet of clear space on a public sidewalk;
- (m) Operate as a Stationary Sidewalk Vendor in exclusively residential zones;
- (n) Operate as a Stationary Sidewalk Vendor in any City park for which the City has a signed agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire(s).
- (o) Operate in violation of any other generally applicable law;
- (p) Display off-site signs. No signs are allowed, except those identifying the name of the product sold (as provided in the application), the name of the vendor, and the posting of prices on the cart. Signs with intermittent, flashing, moving, or blinking light, or varying intensity of light or color, are not permitted.

5.18.080 – Roaming Sidewalk Vendor.

- (a) **Applicability and Exceptions.** The following Roaming Sidewalk Vendors are not subject to the standards in this subsection:
- (1) A roaming vending vehicle or pushcart owned or operated by any public agency;
 - (2) Persons delivering goods, wares, merchandise, fruits, vegetables, or foodstuffs upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution;
 - (3) Vendors participating in farmers markets or other special events as allowed by the city;
 - (4) An event at a school facility or an assembly use facility, if the vendor is operating in partnership with the organization conducting the event and is located on the site of the event (i.e., not in the public right-of-way);
 - (5) Vendors that only sell, display, distribute, solicit, or offer the sale of items that are inherently communicative and have nominal utility apart from its communication (e.g., newspapers, leaflets, pamphlets, buttons, etc.).
- (b) **Additional Application Requirements.** The application for a Roaming Sidewalk Vendor's permit shall be signed by the applicant and shall include, in addition to the requirements of Section 5.18.050, the following:
- (1) If applicable, the state vehicle license plate number and the vehicle identification number of the Roaming Sidewalk Vendor vehicle.
 - (2) For each person with a ten percent or greater financial interest in the business that operates the Roaming Sidewalk Vendor vehicle, a list, signed under penalty of perjury, of each conviction of such person and whether such conviction was by verdict, plea of guilty, or plea of no contest. The list shall for, each conviction, set forth the date of arrest, the offense charged, and the offense of which the person was convicted. A person who acquires a ten percent or greater financial interest in the business that operates the Roaming Sidewalk Vendor vehicle during the term of the permit issued pursuant to this code shall immediately so notify the director and comply with this subsection.

- (3) Valid permit issued by the Riverside County Environmental Health Department, if the sidewalk vendor intends to sell food or any other item requiring a county health department permit.
- (c) Operational Standards. In addition to the operational requirements under Section 5.18.070, it shall be prohibited for any Roaming Sidewalk Vendor to operate under any of the following conditions:
- (1) Leave any stand or motor vehicle unattended;
 - (2) Store, park, or leave any stand overnight on any public street or sidewalk, or park any motor vehicle other than in a lawful parking place;
 - (3) Sell food or beverages for immediate consumption unless there is a litter receptacle available for patrons' use;
 - (4) Leave any location without first disposing all trash or refuse remaining from sales conducted. Trash and refuse generated by the vending cart operations shall not be disposed of in public trash receptacles;
 - (5) Discharge solids or liquids to the Public Right-of-Way or dispose of such solids or liquids in a manner inconsistent with applicable law;
 - (6) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand or vehicle;
 - (7) Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her stand where such terms have not been described by his or her application;
 - (8) Solicit or conduct business with persons in motor vehicles;
 - (9) Sell anything other than that which he or she is permitted to vend;
 - (10) Sound or permit the sounding of any device that produces a loud and raucous noise, or any noise in violation of the city's noise ordinance or use or operate any loud speaker, public address system, radio, sound amplifier, or similar device to attract the attention of the public;
 - (11) Vend without the insurance coverage previously specified;

- (12) Operate within fifty (50) feet of a fire hydrant or twenty-five (25) feet of a transit stop;
- (13) Operate within twenty-five (25) feet of the outer edge of a driveway or vehicular entrance to public or private property in residential zones;
- (14) Operate within fifty (50) feet of the outer edge of a driveway or vehicular entrance to public or private property in commercial, business park, mixed-use, or industrial zones;
- (15) Vend from the exposed street or alley and/or traffic side of the vending cart or vehicle;
- (16) Vend while parked or stopped illegally;
- (17) Vend from any street parking space other than a space parallel to the curb;
- (18) Operate in a manner that does not maintain four (4) feet of clear space on a public sidewalk;
- (19) Operate in any manner or location that blocks any citizen or service entry or exit from any business or residence;
- (20) If applicable, operate from any motor vehicle not licensed by the department of motor vehicles.
- (21) Display off-site signs. No signs are allowed, except those approved in the application which identify the name of the product or the name of the vendor and the posting of prices on the cart. Signs with intermittent, flashing, moving, blinking light, or varying intensity of light or color, are not permitted.

5.18.090 - Additional Operational Standards in Public Parks.

In addition to the operational standards in this Chapter the following shall also be prohibited for any Sidewalk Vendor operating in a public park:

- (a) Operate outside the hours of operation of the park;
- (b) Operate more than six (6) feet from any walking or bicycling pathway in the park;
- (c) Operate within fifty (50) feet of any other sidewalk vendor in the park;

- (d) Operate on, or within twenty-five (25) feet of, any sports field or playground equipment area;
- (e) Utilize any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the park in any way as part of the sidewalk vending operation;
- (f) Operate within twenty-five (25) feet of any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the park.

5.18.100 - Denial of Application.

Any permit may be denied for any of the following causes:

- (a) Fraud or misrepresentation contained in the application for any permit or license required under this Chapter.
- (b) Failure to submit a complete application pursuant to the requirements of this Chapter.

5.18.110. - Appeals.

- (a) Any decision regarding approval, conditional approval, denial, suspension or revocation of a Sidewalk Vendor License may be appealed to the City Manager, or his or her designee, by an applicant, a permit holder or interested party as follows:
 - (1) If the appellant wishes to appeal a decision to the City Manager, or his or her designee, the appellant must file a written appeal with the Perris City Clerk within ten calendar days of the decision. The written appeal shall specify the person making the appeal, the decision appealed from, shall state the reasons for the appeal, and shall include any evidence in support of the appeal which the applicant seeks to be considered by the City Manager, or his or her designee. The written appeal shall also include an appeal fee as set by resolution of the city council.
 - (2) Notice of the time and place of an appeal hearing shall be provided to the appellant within 30 days of receipt by the Perris City Clerk of the written appeal.
 - (3) The appeal hearing shall be held within 60 days of the filing of the written appeal with the Perris City Clerk, unless the 60 day time limit is waived by the appellant, or unless the City Manager, or his

or her designee, continues the appeal hearing date for good cause and upon written notification to the appellant.

- (4) The City Manager, or his or her designee, shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determines whether the appealed decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final unless appealed as provided for below.
- (5) If the appellant wishes to appeal the determination of the City Manager, or his or her designee, then the procedures provided in this section shall be followed for an appeal to the city council, with the exception of the city council may determine to simply affirm by minute order or resolution the determination of the City Manager, or his or her designee, without review, within 60 days of receipt by the Perris City Clerk of the written appeal. Any determination of the city council shall be final.
- (6) The provisions of section 1094.6 of the Code of Civil Procedure sets forth the procedure for judicial review of any final determination. Parties seeking such judicial review shall file such action within 90 days of a determination being made final.

5.18.120. - Service of notices.

All notices required by this Chapter are deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed (if to an applicant, a commercial marijuana operation, or an appellant) to the applicant or commercial marijuana operation at the mailing address identified in its application, the last updated address on file with the director's office, or the mailing address on the appeal form; or, the date upon which personal service of the notice is provided to a responsible party.

5.18.130 - Penalty for Violation.

A violation of these sidewalk vending requirements, other than failure to possess a valid sidewalk vending permit, is only punishable by the following:

- (a) An administrative fine of one hundred dollars (\$100.00) for a first violation.
- (b) An administrative fine of two hundred dollars (\$200.00) for a second violation within one year of the first violation.

- (c) An administrative fine of five hundred dollars (\$500.00) for each additional violation within one year of the first violation.
- (d) Rescission/revocation of a sidewalk vending permit for the term of that permit upon the fourth violation or subsequent violations.

Administrative fines under this section shall follow the procedures set forth in Chapter 1.18, provided that additional administrative fines and related fees, assessments, or any other financial conditions beyond those authorized in Section 5.18.130 and Section 5.18.140 shall not be assessed.

5.18.140 – Penalty for Vending Without a Permit.

Vending without a Sidewalk Vending License issued by the City is only punishable by the following:

- (a) An administrative fine of two hundred fifty dollars (\$250.00) for a first violation.
- (b) An administrative fine of five hundred dollars (\$500.00) for a second violation within one year of the first violation.
- (c) An administrative fine of one thousand dollars (\$1,000.00) for each additional violation within one year of the first violation.
- (d) Upon proof of a valid Sidewalk Vending License issued by the City, any administrative fines imposed under this subsection for vending without possessing a copy of the permit shall be reduced to the administrative fines set forth in Section 5.18.130.

Administrative fines under this section shall follow the procedures set forth in Chapter 1.18, provided that additional administrative fines and related fees, assessments, or any other financial conditions beyond those authorized in Section 5.18.130 and Section 5.18.140 shall not be assessed.

5.18.150 – Ability to Pay Determination.

All fines imposed pursuant to this Chapter shall be subject to an ability-to-pay determination as described in California Government Code Section 51039(f). Concurrently with issuing a citation for such fines to a person, the City shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination.

5.18.160 - Fees.

An application fee set by resolution of the city council shall be required for formal processing of every application made under this Chapter. The city council is authorized to pass resolutions to recover any and all fees and costs incurred by the administration and implementation of this Chapter through an appropriate fee recovery mechanism.”

Section 12. Effective Date. This Ordinance shall take effect 30 days after its adoption.

Section 13. Severability. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance 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 of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portions thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

Section 14. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be posted at the designated locations in the City of Perris.

ADOPTED, SIGNED and APPROVED this 11th day of February, 2020.

Michael Vargas, Mayor

ATTEST:

Nancy Salazar, City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF PERRIS)

I, Nancy Salazar, City Clerk of the City of Perris that the foregoing Ordinance Number 1388 was duly introduced by the City Council of the City of Perris at a regular meeting of said Council on the 28th day of January 2020 and was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 11th day of February, 2020, and that it was so adopted by the following vote:

AYES: CORONA, RABB, ROGERS, MAGAÑA, VARGAS

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

Nancy Salazar, City Clerk