

ZONING ORDINANCE AMENDMENT NO. 2022-05 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING SECTION 41-121 OF, AND ADDING ARTICLE XXII (MOBILE FOOD TRUCKS ON PRIVATE PROPERTY) TO, CHAPTER 41 (ZONING) OF THE SANTA ANA MUNICIPAL CODE ESTABLISHING REGULATIONS RELATING TO THE OPERATION OF MOBILE FOOD TRUCKS ON PRIVATE PROPERTY

THE CITY COUNCIL OF THE CITY OF SANTA ANA HEREBY ORDAINS AS FOLLOWS:

**Section 1.** The City Council of the City of Santa Ana hereby finds, determines and, declares as follows:

- A. On March 17, 2020, the City Council proclaimed the existence of a local emergency to ensure the availability of mutual aid and support an effective response to the novel coronavirus (“COVID-19”) pandemic.
- B. On May 28, 2020, the City Manager, acting as Director of Emergency Services, approved Executive Order No. 5-2020 allowing restaurants and retail businesses to temporarily use public and private sidewalks and parking spaces for outdoor dining and retail operations to help stimulate the economy. In addition, the City Manager issued and published written guidelines (“A Guide for Outdoor Business Operations”) providing guidance and safety measures for businesses to implement.
- C. On July 7, 2020, the City Council approved Resolution No. 2020-055, which temporarily allowed food vending vehicles to use private properties for vending activities and updated the Guide for Outdoor Business Operations to include guidance and safety measures for the operation of food vending vehicles on private properties.
- D. On June 1, 2021, the City Council adopted Resolution No. 2021-29 extending Executive Order No. 5-2020 for a period of one year from the date on which the State moved beyond the Blueprint for a Safer Economy.
- E. On June 15, 2021, the State moved beyond the Blueprint for a Safer Economy.
- F. On July 11, 2022, the City Manager, acting as Director of Emergency Services, approved Executive Order No. 18-2022 allowing the continued operation of food vending vehicles on private property until December 31, 2022. In addition, City Council directed staff to evaluate best practices and present City Council with options and recommendations on permanent regulations for food vending vehicles on private property prior to December 31, 2022.

- G. The proposed amendments to the Santa Ana Municipal Code (SAMC) support the objectives and policies of the City's General Plan.
- H. On November 14, 2022, the Planning Commission held a duly-noticed public hearing to consider this Ordinance, where all interested persons were given an opportunity to be heard, and recommended approval of the ordinance to the City Council.
- I. On December 6, 2022, the City Council held a duly-noticed public hearing to consider this Ordinance, where all interested persons were given an opportunity to be heard.

**Section 2.** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**Section 3.** Section 41-121 (Reserved) of Chapter 41 of the SAMC is hereby amended to read as follows:

**Sec. 41-121. – Reserved Mobile Food Truck.**

Mobile Food Truck means a motorized vehicle or mobile food unit. licensed by the California Department of Motor Vehicles, designed and equipped to prepare, serve, and sell food and/or non-alcoholic beverages. For purposes herein, the term "food" shall mean fruit, meat, vegetables, or other nutritious substance, dispensed in prepared, packaged or other form suitable for immediate ingestion or consumption by human beings. "Mobile Food Truck" shall not include a trailer or any wagon or pushcart, either propelled or drawn by motorized or other force, or any other vehicle incidentally used for dispensing food.

**Section 4.** Article XXII (Mobile Food Trucks on Private Property) to Chapter 41 of the SAMC is hereby added in its entirety to read as follows:

**ARTICLE XXII. – MOBILE FOOD TRUCKS ON PRIVATE PROPERTY**

**Sec. 41-2300. – Purpose.**

The purpose and intent of this Article is to create a streamline administrative permit process allowing mobile food trucks to operate on private property in order to provide entrepreneurial opportunities for small businesses to operate in the City and benefit the community by providing gourmet and fast food services to the City residents, workers, and visitors, and to establish regulations that ensure mobile food trucks are operated in a safe manner and do not create a public nuisance.

**Sec. 41-2301. – Applicability.**

- (a) The provisions of this Article shall apply to all mobile food trucks operating on private property, unless exempted by Section 41-2305(b). Mobile food trucks may operate on City owned property with prior written consent and approval by the City Manager or designee and shall be subject to the provisions of this Article as deemed appropriate by the City Manager or designee.

- (b) The provisions of this Article do not apply to any of the following:
  - (1) Mobile food trucks operating in the public right-of-way subject to the provisions of Article XIV (Food Vending Vehicles) of Chapter 36 (Traffic) of the SAMC.
  - (2) Mobile food trucks operating in conjunction with any city-sponsored event where the operator of the mobile food truck is operating pursuant to a valid contract with the City.
  - (3) Mobile food trucks operating in conjunction with an approved land use certificate and/or special event permit for temporary outdoor activities.
  - (4) Mobile food trucks operating in a construction site (site with a valid building or grading permit) or business which does not vend to the general public during the time on the site and does not conduct operations on any single private property for more than forty-five (45) minutes.
- (c) The provisions of this Article are not intended to provide exclusive regulation of the operation of mobile food trucks on private property. Mobile food trucks shall comply with all applicable state and federal laws and all local regulations imposed in other articles of this Chapter and other city ordinances, unless explicitly exempted under this Article. Should a conflict exist between the provisions of this Article and the provisions of other articles of this Chapter, the provisions of this Article shall prevail, unless otherwise determined by the Director of the Planning and Building Agency.

**Sec. 41-2303. – Application, Permit, and Review Requirements.**

- (a) No mobile food truck shall operate on private property without obtaining approval of an administrative mobile food truck application and permit as established by the Executive Director of the Planning and Building Agency. Approval of the mobile food truck permit shall be granted only to the business owner/operator of the mobile food truck that holds a valid City business license and a health permit from the County of Orange Health Care Agency.
- (b) An approved permit for a mobile food truck shall be renewed on an annual basis on the anniversary date of the original approved permit. An application for renewal shall be submitted to the Planning and Building Agency no later than sixty (60) days prior to the expiration of the approved permit.
- (c) The business owner/operator of the mobile food truck shall maintain and store a copy of the mobile food truck permit within the mobile food truck and shall present the permit, upon request, to a city police officer, code enforcement officer, or any other person designated by the City to enforce this Article.

#### **Sec. 41-2304. – Zone Requirements.**

Mobile food trucks may operate on private property, as an accessory use, that is zoned as mixed use, professional, commercial, or industrial, and all specific development and specific plan areas that have similar zones.

#### **Sec. 41-2305. – Property and Location Requirements.**

Mobile food trucks may only operate on private property that comply with the following property and location requirements:

- (a) The private property is located along an arterial street, as identified in the Mobility Element of the General Plan.
- (b) The private property is developed in accordance with the development standards of this Chapter for the primary use(s) and the zoning designation of the property. Mobile food trucks may operate on a nonconforming site only if the following conditions are satisfied, as deemed appropriate by the Executive Director of the Planning and Building Agency:
  - (1) All signage on the building(s) and site shall be brought into conformity with the requirements of this Chapter;
  - (2) Landscaping shall be improved to bring the site closer into compliance with the landscaping requirements of this Chapter;
  - (3) Parking areas in poor condition shall be improved and maintained in accordance with Section 41-1304 of this Chapter;
  - (4) Bicycle parking shall be provided in accordance with Section 41-1307.1 of this Chapter.
  - (5) Building(s) on the site shall be repainted as need; and/or
  - (6) A trash enclosure in accordance with this Chapter shall be constructed or rehabilitated if one is already built on site.
- (c) The private property is not a stand-alone parking lot or undeveloped vacant property.
- (d) The private property is not developed as a service or gas station.
- (e) The private property does not contain a legally established eating establishment and/or is not located within three hundred (300) feet, as measured from the outermost boundary of the property, of a lot that contains a legally established eating establishment and which operates during the proposed mobile food truck hours of operation. If an eating establishment is established within this separation requirement subsequent to the mobile food truck being approved, nothing shall prohibit the mobile food truck from continuing to operate at the approved location.

#### **Sec. 41-2306. – Maximum Number of Mobile Food Trucks Per Lot Area.**

No more than one (1) mobile food truck per ten thousand (10,000) square feet of lot area or integrated development site area, as defined in Section 41-83.5 of this Chapter, shall be allowed. However, in no event shall more than three (3) mobile food trucks be allowed to operate on a single lot or integrated development site.

#### **Sec. 41-2307. – Operational Standards.**

All mobile food trucks operating within private property shall comply with the following operational standards:

- (a) Mobile food trucks shall comply with all applicable federal, state, and local laws, ordinances and regulations including, without limitation, state food labeling and preparation requirements, fire codes and regulations, and Americans with Disabilities Act (ADA) and regulations.
- (b) Mobile food trucks shall not operate before 6:00 p.m. or after 2:00 a.m., including set-up and clean-up. If operating within two hundred (200) feet of a residential zone or property used for residential purposes, the mobile food truck shall not operate after 10:00 p.m. on Sunday through Thursday and 11:59 p.m. on Friday and Saturday.
- (c) Mobile food trucks shall not be parked or stored overnight on the permitted vending site.
- (d) Mobile food trucks shall only be parked and operate from the area approved on the site plan by the Planning and Building Agency.
- (e) Mobile food trucks shall only occupy parking spaces not required to meet the minimum parking requirements of the primary use(s) on the property per Article XV (Off-Street Parking) of this Chapter. This requirement does not apply if the hours of operation for the mobile food truck and primary use(s) do not coincide. However, in no case shall a mobile food truck and its operations occupy more than twenty-five-percent (25%) of the entire parking area. If multiple mobile food trucks operate on a lot, then no more than fifty-percent (50%) of the entire parking area shall be occupied.
- (f) The outdoor dining area shall comply with corner and driveway obstruction line-of-sight standards, as modified from time to time.
- (g) A minimum of one (1) permanent and accessible public restroom shall be provided on-site and within fifty (50) feet of the mobile food truck and shall be available for use by the employees and customers of the mobile food truck during all hours of operation. Portable restrooms are prohibited to satisfy this requirement.

- (h) A maximum three hundred fifty (350) square-foot, uncovered seating area, may be provided to serve the patrons of the mobile food truck. The seating area may consist of portable chairs, tables, canopies, and barricades which shall be removed prior to closure of the mobile food truck. The seating area shall be located in an area of the site that does not interfere or obstruct any landscape, parking stalls, driveways and circulation, walkways, or fire lanes and hydrants.
- (i) No part of the mobile food truck operations, including seating and equipment, shall encroach onto the public sidewalk or street. The mobile food truck operator shall manage customer queuing and ensure pedestrian accessibility is maintained.
- (j) At minimum, two (2) waste receptacles shall be provided on-site and adjacent to the mobile food truck during all hours of operations and shall be removed prior to the closure of the mobile food truck.
- (k) Litter generated by the mobile food truck and its patrons, within a fifty (50) foot radius of the mobile food truck, shall be removed prior to the closure of the mobile food truck and disposed at an approved commissary.
- (l) Lighting shall be provided during hours of darkness to ensure customer safety. Lighting shall not create glare and shall be directed downward and away from adjacent properties.
- (m) The mobile food truck and its operations shall at all times comply with the noise provisions pursuant to Section 10-153 of Chapter 10 of the SAMC.
- (n) Mobile food truck operators shall be responsible for controlling smoke and odors caused by the mobile food truck and its operations.
- (o) No signage other than that exhibited on the mobile food truck may be displayed.
- (p) No alcoholic beverages shall be served or sold by the mobile food truck.
- (q) No mobile food truck shall cause or dispose of oil or grease on the lot. Wastewater generated on-site shall not be released on-site or into the storm drainage system.
- (r) The mobile food truck shall be entirely self-sufficient in regards to gas, water, and wastewater. The use of generators (i.e. portable or vehicle mounted) to supply electricity to the mobile food truck and its operations is prohibited. A mobile food truck shall utilize an electrical connection to maintain power. The electrical connection shall be approved by the Planning and Building Agency and shall be installed adjacent to the mobile food truck and in a manner that does not create a public safety hazard.

**Sec. 41-2308. – Enforcement, Modification, Revocation and Termination of Mobile Food Truck Permit.**

- (a) It is unlawful for any property owner, business owner, operator, tenant, or other person in control of property within the city for which the provisions set forth in this Article apply, to operate a mobile food truck without a mobile food truck permit, or to fail to comply with each and every condition of that mobile food truck permit.
- (b) Each and every violation of this Article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the SAMC. Additionally, as a nuisance per se, any violation of this Article shall be subject to injunctive relief, revocation of the mobile food truck permit, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney's fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the mobile food truck permittee and persons related or associated with the business.
- (c) When an authorized City of Santa Ana representative finds that any of the provisions of this Article have been violated or that any of the following findings of fact can be made, the Executive Director of the Planning and Building Agency, or its designee, may revoke, suspend, or modify the mobile food truck permit:
  - (1) The mobile food truck permit was issued, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application;
  - (2) One (1) or more of the requirements of the mobile food truck permit have not been substantially fulfilled or have been violated;
  - (3) The mobile food truck and its operations authorized in compliance with the mobile food truck permit are in violation of any code, law, ordinance, regulation or statute of the city, state or federal government; or
  - (4) The mobile food truck and its operations authorized in compliance with the mobile food truck permit have become detrimental to the public convenience, health, interest, safety or welfare, or the manner of operation constitutes or is creating a nuisance.
- (d) No such revocation shall become effective until the mobile food permit holder has been notified in writing by certified mail of the right to appeal the revocation decision pursuant to the provision of Chapter 3 of the SAMC. If a timely appeal is filed, the revocation shall be effective only upon decision of a hearing officer as provided for in Chapter 3 of the SAMC. Otherwise, the revocation shall become effective after the time for appeal has passed.
- (e) A mobile food truck permit shall be terminated if the mobile food truck permit is not renewed pursuant to Section 41-2303 of this Article.

**Section 5.** The City Council may, by resolution, establish a fee for the administrative mobile food truck permit required by this ordinance. The City Council shall from time to time by resolution adopt a schedule of fees to be charged.

**Section 6.** The City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act (CEQA). Pursuant to CEQA and the CEQA Guidelines, the adoption of this Ordinance is exempt from CEQA review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as there is no possibility it will have a significant effect on the environment and it is not a "project", as defined in Section 15378 of the CEQA Guidelines. As a result, a Notice of Exemption, Environmental Review No. 2022-99, will be filed upon adoption of this ordinance.

**Section 7.** If any section, subsection, 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 of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

**Section 8.** This Ordinance shall become effective thirty (30) days after its adoption.

**Section 9.** The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

---

Vicente Sarmiento  
Mayor

APPROVED AS TO FORM  
Sonia R. Carvalho, City Attorney

By: John M. Funk  
John M. Funk  
Chief Assistant City Attorney



AYES: Councilmembers: \_\_\_\_\_

NOES: Councilmembers: \_\_\_\_\_

ABSTAIN: Councilmembers: \_\_\_\_\_

NOT PRESENT: Councilmembers: \_\_\_\_\_

#### CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, \_\_\_\_\_, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-\_\_\_\_\_ to be the original ordinance adopted by the City Council of the City of Santa Ana on \_\_\_\_\_, 2022 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Council  
City of Santa Ana