

WASHINGTON TERRACE CITY

ORDINANCE 19-04

FOOD TRUCK BUSINESS

AN ORDINANCE ADOPTING CHAPTER 5.07 OF THE MUNICIPAL CODE RELATING TO FOOD TRUCK BUSINESSES; ADOPTING REGULATIONS PROVIDED UNDER STATE LAW; MAKING TECHNICAL CHANGES; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Washington Terrace City (hereafter referred to as "City") is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §10-8-84 authorizes the City to provide for safety, preserve health, promote prosperity, peace, and good order;

WHEREAS, *Utah Code Annotated* §10-1-203 states "the legislative body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance."

WHEREAS, The City desires to regulate retail Food Truck Business;

NOW, THEREFORE, be it ordained by the City Council of Washington Terrace City as follows:

Section 1: **Repealer.** Any word other, sentence, paragraph, or phrase inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: **Amendment.** Chapters 5.07 entitled "Food Truck Businesses" is hereby adopted to read as follows:

Chapter 5.07

FOOD TRUCK BUSINESSES

Section:

5.07.010. Mobile Food Truck business.

5.07.010: Purpose and intent:

5.07.020: Definitions:

5.07.030: Mobile food business allowed:

5.07.040: Application for a business license:

5.07.050: Separate applications:

5.07.060: Fees; annual operations:

5.07.070: Business activity to be temporary:

5.07.080: Mobile food truck:

5.07.90: Signs:

5.07.100: Professional and personal services prohibited:

5.07.110: Compliance responsibility:

5.07.120: Special events:

5.07.010 Purpose and intent:

Council finds it necessary to regulate the operation of food trucks in Washington Terrace in order to promote the character, maintain traffic flow in commercial and Residential parking areas, reduce pedestrian / vehicle conflicts, ensure required parking spaces are not obstructed at local businesses, schools and reduce the potential for litter and garbage accumulation, and minimize visual clutter; and with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

5.07.020 Definitions:

1. "Mobile Food Business or Food Truck Business": A business that serves food or beverages from a self-contained unit either motorized or in a trailer on wheels, and conducts all or part of its operations on premises other than its own and is readily movable, without disassembling, for transport to another location. The term "mobile food business" shall not include vending carts or mobile ice cream vendors.
2. "Mobile Food Trailer": A mobile food business that serves food or beverages from a non-motorized vehicle that is normally pulled behind a motorized vehicle. The term "mobile food trailer" shall not include vending carts, mobile food trucks or mobile ice cream vendors.
3. "Mobile Food Truck": A mobile food business that serves food or beverages from an enclosed self-contained motorized vehicle. The term "mobile food truck" shall not include vending carts, mobile food trailers or mobile ice cream vendors.
4. "Event permit" means a permit that a political subdivision issues to the organizer of a public food truck event located on public property.
5. "Food cart" means a cart:
 - (a) that is not motorized; and
 - (b) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.
6. "Food truck" means a fully encased food service establishment:
 - (a) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.
 - (b) "Food truck" does not include a food cart or an ice cream truck.

7. "Food truck event" means an event where an individual has ordered or commissioned the operation of a food truck at a private or public gathering.
8. "Food truck operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the food truck business.
9. "Food truck vendor" means a person who sells, cooks, or serves food or beverages from a food truck.
10. "Health department food truck permit" means a document that a local health department issues to authorize a person to operate a food truck within the jurisdiction of the local health department.
11. "Ice cream truck" means a fully encased food service establishment:
 - (a) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;
 - (b) from which a vendor, from within the frame of the vehicle, serves ice cream;
 - (c) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and
 - (d) that may stop to serve ice cream at the signal of a patron.
12. "Local health department" means the same as that term is defined in Section 26A-1-102.
13. "Political subdivision" means:
 - (a) city, town, or metro township; or
 - (b) county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.
14. "Temporary mass gathering" means:
 - (a) an actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day; or
 - (b) an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.
15. "Temporary mass gathering" does not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless the assembly is a temporary mass gathering described above.

5.07.030: Mobile Food Business Allowed:

1. No person shall operate a mobile food truck business, without first having obtained a business license from the city in accordance with chapter 5.02.050 of this title, or its successor.
2. Mobile food truck vehicles are allowed to operate but must comply with Utah State law 11-56-102

5.07.040: Application for a Business License:

1. Application for all mobile food businesses shall be made with the city business licensing division, prior to the commencement of operation. The applicant shall submit the following information:
 - a. Name and address of applicant.
 - b. Name and address of the approved commercial supply source and primary licensed food establishment, if applicable.
 - c. Pass a background check on owner/driver(s).
 - d. License plate number.
 - e. A description of the vehicle to be used in conducting business including, but not limited to, a description of any method to display food or products to be offered for sale.
 - f. A valid copy of all necessary licenses or permits required by State or local health and transportation authorities.

g.. Each applicant for a license or renewal under this chapter shall submit, with its application:

- (i) a certificate of insurance executed by an insurance company or association authorized to transact business in this State, approved as to form by the City Attorney,
- (ii) that there is in full force and effect general liability insurance in an amount not less than amounts as set forth in section 63-30-34 of the Utah Code, as amended, or its successor.
- (iii)Such policy or policies shall include coverage of all motor vehicles used in connection with applicant's business.
- (iv)A current certificate of insurance shall be kept on file with the Business License Official at all times that applicant is licensed by the City verifying such continuing coverage and naming the City as an additional insured.
- (v) The certificate shall contain a statement that the City will be given written notification at least thirty (30) days prior to cancellation or material change in the coverage without reservation of non-liability for failure to so notify the City.
- (vi)Cancellation shall constitute grounds for revocation of the license issued hereunder unless another insurance policy complying herewith is provided and is in effect at the time of cancellation/termination.

h. A signed statement that the permittee shall hold the City and its officers and employees harmless from any and all liability and shall indemnify the City and its officers and employees for any claims for damage to property or injury to persons arising from any activity carried on under the terms of the permit.

i. Where applicable, the written consent of the property or business owner.

2. Licensing -- Reciprocity -- Fees.

(a) A political subdivision may not:

(i.) require a separate license, permit, or fee beyond the initial or reciprocal business license described in Subsection (2) and the fee described in Subsection (3) for a food truck business, regardless of whether a food truck operates in more than one location or on more than one day within the political subdivision in the same calendar year;

(ii.) require a fee for each employee the food truck business employs; or

(iii.) as a business license qualification, require a food truck business to, regarding a food truck operator or food truck vendor:

(a) Submit to or offer proof of a criminal background check; or

(b) Demonstrate how the operation of the food truck business will comply with a land use or zoning ordinance at the time the business applies for the business license.

(b)

(i.) A political subdivision shall grant a business license to operate a food truck within the political subdivision to a food truck business that has obtained a business license to operate a food truck in another political subdivision within the state if the food truck business presents to the political subdivision:

(ii.i) a current business license from the other political subdivision within the state; and

(iii) for each food truck that the food truck business operates:

(a) a current health department food truck permit from a local health department within the state; and

a current approval of a political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted in accordance with Subsection 11-56-104(4)(a).

If a food truck business presents the documents described in Subsection (2)(a), the political subdivision may not:

(i) impose additional license qualification requirements on the food truck business before issuing a license to operate within the political subdivision, except for charging a fee in accordance with Subsection (3); or

(ii) issue a license that expires on a date earlier or later than the day on which the license described in Subsection (2)(a)(i) expires. (c) Nothing in this Subsection (2) regulations, zoning, and other ordinances in relation to the operation of a food truck to the extent that the regulations and ordinances do not conflict with this chapter

5.07.050: Separate Application:

Separate business license applications may be required for each mobile food business. Separate business license fees shall be required for each mobile food business vehicle operating under one (1) business license.

5.07.060: Fees; Annual Operation:

No license shall be issued or continued in operation unless the holder thereof has paid the pertinent business regulatory fees set forth in the City consolidated fee schedule for each mobile food truck business.

5.07.070: Business activity to be temporary:

All business activity related to mobile food truck businesses shall be of a temporary nature, the duration of which shall not extend for more than twelve (12) hours within a twenty four (24) hour period at any one (1) premises or location.

5.07.080: Mobile Food Truck:

1.A Food Truck Operator may use a Food Truck to conduct business in the any zone only as part of an organized event that is sanctioned by a temporary use permit. A Food Truck Operator may not use a Food Truck to conduct business unless the use is consistent with the standards below.

2.A Food Truck Operator may not use a Food Truck to conduct business in the public right-of-way, on a private street, or on public property. A Food Truck Operator may not use a Food Truck to conduct business on private property unless the Food Truck Operator has the express authorization from the property owner(s) of the location where the Food Truck Operator intends to conduct business. And the property has applied for a special event permit.

3.The Food Truck Operator must have an agreement with the owner or operator of restroom facilities located within 100 feet of the Food Truck location for employees and customers of the Food Truck to use the restroom and handwashing facilities.

4.A Food Truck Operator may not allow a Food Truck to occupy or block access to any parking spaces

5.A Food Truck Operator must provide two on-site parking spaces for customers of the Food Truck.

6.A Food Truck may not block or impede access to public or private streets, driveways, fire access lanes, parking access lanes, pedestrian pathways and sidewalks, or any other similar transportation infrastructure.

7. A Food Truck may not be parked or conduct business within any required setback for the property on which it is located.

8. If a Food Truck Operator uses a Food Truck to conduct business in the same location for more than 10 hours per week, the Food Truck Operator shall, before conducting business for more than 10 hours per week, submit a site plan to the Chief Building Official demonstrating compliance with all of the standards (C) through (F).
9. The Food Truck Operator must provide and maintain trash and recycling receptacles located within 30 feet of the Food Truck, and the Food Truck Operator must properly dispose of all trash and recycling deposited therein
10. If the Food Truck Operator provides temporary seating, all tables, chairs, awnings, and other personal property of the Food Truck Operator must meet the same standards in this section that regulate the Food Truck itself
11. No more than one Food Truck may be parked or conduct business on the same property at the same time, unless the owner of the property has a special event permit in conjunction with an organized outdoor event on the property.
12. A Food Truck may not be powered by idling truck engines or by any gas- or diesel-powered generator.
13. All signage associated with the Food Truck must be affixed to or located within the Food Truck itself and must comply with color standards for signage. No portable or temporary signs are allowed.
14. The sale of secondary merchandise (goods other than food products including but not limited to clothing, promotional trinkets, and souvenirs) from any Food Truck is prohibited.
15. Music and other noise from the Food Truck is regulated by City Code.
16. This section does not permit the operation of ice cream trucks, food carts, or any other type of mobile or temporary sales vendor other than food trucks.

5.07.090: Signs:

1. No signs shall be used to advertise the conduct of the mobile business at the premises other than that which is physically attached to the vehicle, except temporary signs authorized by Code.
- 2.. All signage associated with the Food Truck must be affixed to or located within the Food Truck itself and must comply with color standards for signage. No portable or temporary signs.

5.07.100: Professional and prohibited services prohibited:

The performance of professional or personal services for sale shall not be provided from a mobile food truck. Sales should be strictly for food service.

5.07.110: Compliance responsibility:

The holder shall not be relieved of any responsibility for compliance with the provisions of this chapter, whether the holder pays salary, wages or any other form of compensation to drivers.

5.07.120: Special events:

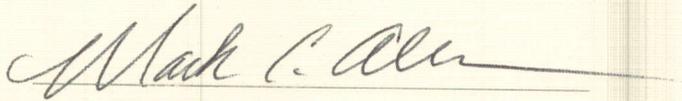
1. The restrictions of this chapter notwithstanding, nothing herein shall prohibit the city from authorizing mobile food truck businesses, other than those licensed under this chapter:
 - a. to conduct concurrent vending operations within the public right of way, or such other areas as the city may deem appropriate, during special events (special event vendors).
 - b. The special event vendors shall not be governed by this chapter, but shall be governed by such other ordinance, city policy, or executive order as may be applicable.

- c. However, as long as the public right of way remains open to the general public, such authorization of special event vendors shall not require removal of a permittee under this chapter from operating within his/her designated permit operating location or a mutually acceptable adjacent alternative location during such special event, unless otherwise provided under the city's ordinances.
- d. If the city is closing a public right of way to general access, either partially or fully, in order to accommodate a special event, the mobile food truck business may not access that right of way unless specifically authorized by the city.

Section 3: Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 4: Effective date. This Ordinance shall be effective immediately upon posting or publication after final passage.

ADOPTED AND APPROVED on this 18 day of June, 2019.



MARK C. ALLEN, Mayor,
Washington Terrace City

ATTEST:



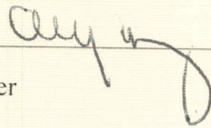
AMY RODRIGUEZ,
City Recorder

RECORDED this 18 day of June, 2019

PUBLISHED OR POSTED this 19 day of June, 2019.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Washington Terrace City, hereby certify that foregoing Ordinance was duly passed and published, or posted at 1) Website 2) City Hall and 3) Senior Center on the above referenced dates.


City Recorder

DATE: 6-19-19