

ORDINANCE NO. 17-_____

AN ORDINANCE AMENDING PART 7 (PEDDLERS OF FOOD WARES) OF ARTICLE 3 (SALES OF GOODS AND SERVICES) OF CHAPTER 2 (BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO MOBILE FOOD VENDORS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 701 (Definitions) of Part 7 (Peddlers of Food Wares) of Article 3 (Sales of Goods and Services) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

~~PART 7 PEDDLERS OF FOOD WARE~~ **MOBILE FOOD VENDOR**

2.3.701: DEFINITIONS:

FOOD: Any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

~~FOOD WARES:~~ Foodstuffs, fruits, vegetables, meats, eggs, fowl or any article that may be used for food purposes, except milk, cream and buttermilk, that are sold, distributed or offered for sale or distribution by a peddler.

~~PEDDLER~~**MOBILE FOOD VENDOR:** Any person who goes from place to place **operates** in the City selling or taking orders for or offering to sell or take orders for food wares from or upon the public right of way, **or to a person on the public right of way.**

~~PEDDLER'S CART~~**MOBILE FOOD VENDOR APPARATUS:** A cart, food cart ~~truck~~, wagon, mobile stand, **motor vehicle** or other vehicle, **or other appurtenances** used to conduct ~~peddling~~**Mobile Food Vendor** operations.

~~PEDDLING: The selling, offering for sale, distribution, or offering for distribution of food wares from place to place or on public ways or public property whether by crying food wares, hawking, soliciting orders or otherwise, and shall include the selling, offering for sale, distribution or offering for distribution from a peddler's cart or from baskets or containers taken from place to place within the City, other than delivery from regularly established, permanent business locations.~~

~~PEDDLING~~**MOBILE FOOD VENDOR OPERATIONS: The retail business operation of a Mobile Food Vendor Apparatus that stores, prepares, or packages food for sale for human consumption or serves or otherwise provides food for sale for human consumption to consumers directly or indirectly within the City, other than delivery from regularly established permanent business locations.** ~~The business of peddling or any act of peddling for profit.~~

Section 2. Section 702 (License Required; Fees; Term; Exemption) of Part 7 (Peddlers of Food Wares) of Article 3 (Sales of Goods and Services) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.3.702: LICENSE REQUIRED; FEES; TERM; EXEMPTION:

A. It shall be unlawful for any person to ~~peddle food wares~~ **operate as a Mobile Food Vendor** within the City without first obtaining a license. Fees for ~~peddling food wares~~ **Mobile Food Vendor** shall be as established by City Council under Article 1, Part 5 of this Chapter, and the license shall expire one year from the date of issuance, unless suspended or revoked earlier.

B. ~~All religious, nonprofit, and charitable organizations are exempt from the requirements of this section~~ **Nothing in this part is intended to inhibit or prohibit the lawful order, sales, or delivery of food from regularly established permanent business locations.**

Section 3. Section 703 (Peddling Regulations; Prohibitions) of Part 7 (Peddlers of Food Wares) of Article 3 (Sales of Goods and Services) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

2.3.703: ~~PEDDLING~~**MOBILE FOOD VENDOR REGULATIONS; PROHIBITIONS:**

A. It shall be unlawful for any ~~peddler~~ **Mobile Food Vendor** to stop a ~~peddler's cart~~, or to place a **Mobile Food Vending Apparatus**, food, ~~wares~~ tables, chairs or other fixtures, furniture, devices, generators or awnings used in ~~to~~ **conduct peddling Mobile Food Vendor operations so as to obstruct the free travel of pedestrians or vehicles** in, on, near or above any public street, sidewalk, or other public right of way., ~~to stop or place these items so as to obstruct the free travel of pedestrians or vehicles.~~

B. It shall be unlawful for any ~~peddler~~ to cry food wares louder than a natural tone or in any manner which creates a nuisance, or to conduct peddling operations in violation of chapter 9, article 8 of this City Code. **It shall be unlawful for a Mobile Food Vendor to stop or operate within twenty (20) feet of an intersection, or to sell or attempt to sell to any person who is standing in the street or roadway, or operate in any area so as to interrupt or interfere with the normal flow of vehicular or pedestrian traffic.**

C. No ~~peddler's~~ **Mobile Food Vendor's** license shall be valid within the boundaries of, or within three hundred feet (300') of, any temporary park use permit for a special event or revocable permit for a special event issued by the City which expressly prohibits, limits or regulates licensed **Mobile Food Vendor** activities. The term "special event" as used in this section means activities such as, but not limited to, festivals, concerts, games and athletic events, parties, celebrations, picnics, parades, educational presentations and reenactments, memorial services, classes and other similar activities for which a revocable permit for the exclusive use of public property has been issued as provided by the City Charter or this Code, including those permits issued under Chapters 3 and 4 of this Code.

1. It shall be unlawful for any **Mobile Food Vendor**, including persons licensed under this part, who is not a bona fide participant under a temporary park use permit for a special event or a revocable permit for a special event, to ~~peddle food wares~~ **operate** within the boundaries of a temporary park use permit for a special event or a revocable permit for a special event, or within three hundred feet (300') of the boundaries of a temporary park use permit for a special event or a revocable permit for a special event.

2. It shall be unlawful for any **Mobile Food Vendor**, including persons licensed under this part, who is not a bona fide participant under a temporary park use permit for a special event or a revocable permit for a special event, to refuse or fail to comply immediately with an order from a City police or fire officer, City Clerk's or Zoning Office to remove their ~~food wares~~ **operation** and physically leave the boundaries of the temporary park use permit for a special event or a revocable permit for a special event, or to a point at least three hundred feet (300') from the outer

boundaries of the temporary park use permit for a special event or a revocable permit for a special event.

D. It shall be unlawful to ~~peddle~~**sell or offer to sell** any goods, wares or merchandise other than food ~~wares~~ upon City property or City rights of way in violation of Chapter 3, Article 2, Part 2 of this Code.

E. It shall be unlawful for any **Mobile Food Vendor** ~~peddler operating a peddler's cart~~ to violate the provisions of the City Code and any regulations or licensing requirements of the Colorado or El Paso County Departments of Health and Environment.

F. It shall be unlawful for any **Mobile Food Vendor** ~~peddler~~ to ~~peddle food wares~~ **conduct Mobile Food Vendor operations** from any loading zone, fire lane, alley or metered parking space (regardless of the hours of meter operation and enforcement) in violation of Chapter 10 of this Code **without the approval of a temporary permit in accordance with Chapter 10 of the City Code.**

G. It shall be unlawful to engage in ~~peddling~~**Mobile Food Vendor** operations upon any private property without the express written permission of the owner and the approval of a temporary use permit in accord with **Chapter 7 of the City Code.**

H. Menus, advertising and other signs related to the **Mobile Food Vendor** ~~peddling~~ operation may be affixed to the **Mobile Food Vendor apparatus** ~~peddler's cart~~ so long as the menu, advertisement or other sign does not extend beyond the physical limits of the **apparatus** ~~cart~~.

I. No artificial lighting device may be erected on the public right of way or affixed to the **Mobile Food Vendor apparatus** ~~peddler's cart~~.

J. It shall be unlawful to connect, either permanently or temporarily, any **Mobile Food Vendor apparatus** ~~peddler's cart~~ or other item used in **Mobile Food Vendor** ~~peddling~~ operations to any water, wastewater, gas, electric or other utility service.

K. **Mobile Food Vendor** ~~Peddling~~ operations in an area that is zoned or used for residential purposes may only be conducted between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M. Any **Mobile Food Vendor apparatus** ~~peddler's cart~~ used in an ~~peddling~~ operation must be removed from the public right of way in an area that is zoned or used for residential purposes between the hours of seven o'clock (7:00) P.M. and seven o'clock (7:00) A.M.

L. **Mobile Food Vendor** ~~Peddling~~ operations in an area that is zoned or used exclusively for commercial, office or industrial uses may not be conducted between the hours of three o'clock (3:00) A.M. and seven o'clock (7:00) A.M.

Any **Mobile Food Vendor apparatus** ~~peddler's cart~~ used in an ~~peddling~~ operation must be removed from the public right of way in an area that is zoned or used exclusively for commercial, office or industrial purposes between the hours of three o'clock (3:00) A.M. and seven o'clock (7:00) A.M.

Section 4. Any person convicted of violations of Section 702 (License Required; Fees; Term; Exemption) or Section 703 (Mobile Food Vendor Regulations; Prohibitions) of Part 7 (Mobile Food Vendor) of Article 3 (Sales of Goods and Services) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended; shall be punished as provided in Section 201 (General Penalty) of Part 2 (General Penalty) of Article 1 (Administration) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs, 2001, as amended.

Section 5. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 6. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2017.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk