



CITY COUNCIL STAFF REPORT

DATE: MAY 6, 2015

LEGISLATIVE

SUBJECT: AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 6.15 TO, AMENDING SUBSECTION (a) OF SECTION 12.12.055 OF, AND REPEALING SECTIONS 6.08.140 AND 12.28.100 OF, THE PALM SPRINGS MUNICIPAL CODE, MOBILE FOOD VENDING VEHICLES

FROM: David H. Ready, City Manager

BY: Community & Economic Development Department

SUMMARY

This Ordinance provides for time, place, and manner regulations affecting the location and operating conditions for mobile food truck vending in the community. This Ordinance compliments recent changes to the way in which Riverside County inspects and licenses these vehicles through a framework that allows operators of such vehicles to do business in Palm Springs while providing a regulatory program that will preserve public safety and welfare.

RECOMMENDATION:

1. Waive text and introduce for first reading an Ordinance of the City Council "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 6.15 TO, AMENDING SUBSECTION (a) OF SECTION 12.12.055 OF, AND REPEALING SECTIONS 6.08.140 AND 12.28.100 OF, THE PALM SPRINGS MUNICIPAL CODE, AND REPEALING URGENCY ORDINANCE NO. 1864, RELATING TO MOBILE FOOD VENDING VEHICLES."

Background

In April, 2014, the County of Riverside amended its Health Department rules to allow Mobile Food Vendors (food trucks) to operate in the county outside the very narrow limitations that had previously been in place, such as mobile food vendors only being able to operate at special events, or as pre-packaged food vendors, or as caterers. The

ITEM NO. 3.A.

County regulations relate directly to the Health Department aspects of the operation. Nevertheless, other public safety, welfare, and health issues relating to mobile food vending are subject to local municipal regulation.

On March 18, 2014 the City Council adopted a moratorium for a six month period to allow the development of an ordinance that would address a number of the issues regarding food trucks

Over the past several months, Staff has met with a stakeholder group to develop the City's food truck ordinance. The stakeholder group was comprised of restaurant owners, Main Street, and other downtown representatives. Staff tried to ensure a good geographic representation of stakeholders, as well as a mix of restaurant types, including restaurants from Uptown, each of the blocks in Downtown, as well as the areas east of Indian Canyon Drive. Both large and small restaurants were represented, as were those who operate restaurants outside Downtown.

Staff reviewed mobile food vending regulations from a number of jurisdictions in California. Each jurisdiction approaches regulation from its own unique perspective. Staff has had several in-depth interviews with mobile food vendor operators from all over Southern California about the potential of the Palm Springs market and the practical challenges facing operators that wish to operate here, regardless of what provisions are contained in the ordinance. It is apparent that with proper regulation, Mobile Food Vendors can provide additional food choices for Palm Springs residents and visitors.

Time, place, and manner restrictions for mobile food vending vehicles are necessary to ensure pedestrian safety, control excessive demand on parking spaces particularly within central business district, enhance traffic circulation movement, prevent aesthetic blight from unsightly accumulation of waste in public right of way areas, and to minimize adverse aesthetic impacts to the downtown commercial streetscape from unsightly large commercial vehicles consistently parked on the street in the central business district. All of these are findings in the Ordinance.

The Ordinance includes findings regarding traffic hazards and special dangers to residents of the community. Mobile food vending vehicles frequently stop in public rights of way in a manner which can endanger pedestrians and vehicle traffic, particularly in areas of heavy traffic volume.

This ordinance is enacted pursuant to the City's police power under the City's Charter, Article XI, Section 7 of the California Constitution, and Vehicle Code section 22455(b). Section 22455(b) expressly authorizes time, place, and manner municipal regulation of mobile food vending vehicles. A main element of the ordinance deals with the location restriction that vending truck operators will not be permitted to vend within the downtown and uptown areas, as described in the Ordinance. In this key core area, there is existing vehicular congestion and shortage of available on-street and off-street parking spaces to serve businesses already located in the area. However, mobile food vendors may operate in other areas of the City, as appropriate. Mobile Food Vendors

operating on public or private property outside the Central Business District would be required to obtain a Mobile Food Vendor Permit.

It is therefore the purpose and intent of the City, in enacting an ordinance to provide responsible companies and persons who engage in food vending from vehicles 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. It also represents a middle ground that reasonably attempts to balance the health, safety and aesthetic concerns of the community and the legitimate business interest of food truck operators.

Conclusion

The March 18, 2014 City Council moratorium on food trucks was for a six month period, which was set to expire on September 18, 2014. On September 3, 2014, the moratorium was extended for three more months, and in December, 2014 it was extended to December 31, 2015. There were additional stakeholder meetings conducted after September, 2014, with an even wider stakeholder group, and there was additional feedback from food truck operators, who were given a chance to review and comment on the draft ordinance.

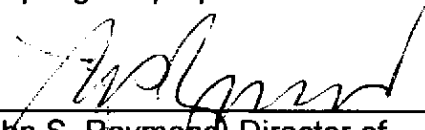
Upon the effective date of this ordinance, the previously adopted urgency ordinance (Ordinance No. 1864) regulating mobile food vending shall no longer be effective.

Environmental Review

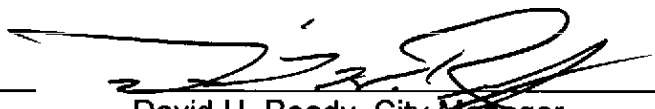
Staff has reviewed the proposed amendment to the Palm Springs Municipal Code and determined that it can be seen with certainty that there is no possibility that the proposed ordinance may have a significant adverse effect on the environment. Therefore, consideration and approval of the ordinance is not subject to the California Environmental Quality Act (CEQA), and no further study is needed. (Refer to 15061(b)(3) of the CEQA Guidelines.)

Fiscal Analysis


No significant change to City revenue or expenditures is expected as a result of adopting the proposed ordinance.



John S. Raymond, Director of
Community & Economic Development



David H. Ready, City Manager



Douglas C. Holland, City Attorney

Attachment:

1. "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 6.15 TO, AMENDING SUBSECTION (a) OF SECTION 12.12.055 OF, AND REPEALING SECTIONS 6.08.140 AND 12.28.100 OF, THE PALM SPRINGS MUNICIPAL CODE, AND REPEALING URGENCY ORDINANCE NO. 1864, RELATING TO MOBILE FOOD VENDING VEHICLES."

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 6.15 TO, AMENDING SUBSECTION (a) OF SECTION 12.12.055 OF, AND REPEALLING SECTIONS 6.08.140 AND 12.28.100 OF, THE PALM SPRINGS MUNICIPAL CODE, AND REPEALING URGENCY ORDINANCE NO. 1864, RELATING TO MOBILE FOOD VENDING VEHICLES.

City Attorney Summary

SECTION 1. Sections 6.08.140 and 12.28.100 of the Palm Springs Municipal Code are repealed.

SECTION 2. Chapter 6.15 is added to the Palm Springs Municipal Code to read:

Chapter 6.15 MOBILE FOOD VENDING VEHICLES

6.15.010 Purpose -Intent.

6.15.020 Definitions.

6.15.030 Permit - Required.

6.15.040 Permit – Term - Renewal.

6.15.050 Application for Mobile Food Vendor Permit – Contents - Required Fee.

6.15.060 Investigation of Application.

6.15.070 Permit - Issuance.

6.15.080 Permit - Denial.

6.15.090 Permit - Revocation.

6.15.100 Mobile Food Vending Vehicle Regulations.

6.15.110 Prohibited Conduct.

6.15.120 Insurance Requirements.

6.15.130 Inspection of Mobile Food Vending Vehicles.

6.15.140 Required Signs and Lettering.

6.15.150 Applicability of Regulations to Existing Businesses.

6.15.160 Nuisance; Violation and Penalty.

6.15.170 Exceptions.

6.15.010 Purpose - Intent.

The City Council expressly finds that vehicles in which produce, confections, and food products are prepared, cooked, and/or carried for purposes of retail sale on the public streets pose special dangers to the public health, safety, and welfare of children and residents in the City of Palm Springs. It is the purpose and intent of the City Council, in enacting this, to provide responsible companies and individuals who engage in the operation of Mobile Food Vending Vehicles with clear and concise regulations to prevent safety, traffic, and health hazards, as well as to preserve the peace.

6.15.020 Definitions.

As used in this Chapter:

“Downtown Palm Springs” means the area generally bounded by both sides of Vista Chino on the north, both sides of the alignment of Palm Canyon Drive, Alejo Road, Belardo Road, North Museum Drive, E. Tahquitz Canyon Way, and Belardo Road on the west, both sides of Ramon Road on the south, and both sides of Palm Canyon Drive and Indian Canyon Drive on the east.

“Food” means items intended primarily for consumption by human beings.

“Mobile Food Vending Vehicle” means any Category 1, 3, 4, or 5 mobile food facility as defined by Riverside County Ordinance No. 580.5, as may be amended from time to time, that is equipped or primarily used for the preparation and retail sale of food on any public street, alley, parking lot, or highway within the City. The inventory of these vehicles need not be necessarily limited to produce, food, or confections.

“Mobile Food Vendor” means any person who:

1. Conducts or permits or causes the operation of Mobile Food Vending Vehicles;
2. Owns, operates, controls, manages, or leases Mobile Food Vending Vehicles; or
3. Contracts with persons to drive and vend from Mobile Food Vending Vehicles.

“Mobile Food Vendor’s permit” means a permit issued by the City Manager authorizing the holder thereof to engage in the business of food vending.

“Operator” means any person who drives, operates or vends from a Mobile Food Vending Vehicle and shall include the driver and assistant on each Mobile Food Vending Vehicle.

“Park” means all grounds, buildings, improvements, and areas dedicated to use by the public for park, recreation, or open space purposes and over which the City has acquired right of use for such purposes. The term “Park” includes sidewalks, trails, and pathways in or around park facilities, park strips, and other grounds of any park.

“Person” means any natural person, firm, partnership, association, corporation, or stockholder and includes, but is not limited to, owners, operators, drivers, lessors, and lessees of food trucks.

“Vend” or “vending” means offering food products of any kind for preparation or sale from a Mobile Food Vending Vehicle as defined in this section on a street, alley, highway or public place within the City and includes the movement or standing of a Mobile Food Vending Vehicle for the purpose of preparing food for retail sale, or searching for, obtaining or soliciting retail sales of products.

6.15.030 Permit - Required.

No person shall operate or cause the operation of a Mobile Food Vending Vehicle in the City without a Mobile Food Vendor's permit issued pursuant to the provision of this Chapter and any other license or permit required under any other provision of this code. Additionally, a mobile food facility permit issued by the county of Riverside and certificates of inspection from the Office of the Fire Marshal, are required for each and every Mobile Food Vending Vehicle before the Mobile Food Vendor's permit is issued.

6.15.040 Permit - Term - Renewal.

The term of the Mobile Food Vendor permit, unless sooner suspended or revoked, shall be annual. Upon the expiration of such term, the permittee may renew the permit by paying the renewal fee as is established by resolution of the City Council. If there are substantial changes in the original application, a new application shall be required in conformance with Section 6.15.050.

6.15.050 Application for Mobile Food Vendor Permit – Contents - Required Fee.

A. Any person who desires to obtain a permit to operate or cause the operation of one or more Mobile Food Vending Vehicles shall obtain an application from the City Manager. Prior to submitting such application a nonrefundable fee, as established by resolution of the City Council, shall be paid to the City Manager to defray, in part, the cost of the investigation and report required by this Chapter. After an application permit has been filed with the City Manager, the City Manager shall cause an investigation to be made by the health officer and chief of police. Permit issuance fees required under this Chapter shall be in addition to any license, permit or fee required under any other Chapter of this code.

B. Neither the filing of an application for a permit, nor the payment of an application fee, shall authorize the vending from, operation or management of a Mobile Food Vending Vehicle until such permit has been granted or renewed.

C. Each applicant for a permit to conduct business as a Mobile Food Vendor shall furnish the following information:

1. The present or proposed address from which the business is to be conducted;
2. The full true name under which the business will be conducted;
3. The full true name and any other names used by the applicant;
4. The present residence and business address and telephone numbers of the applicant;
5. A general description of the kinds of merchandise that the Mobile Food Vending Vehicles will vend;
6. The number of vehicles to be owned, operated or controlled by the applicant and the makes, body styles, years, serial and engine numbers, state license plate numbers, and names and addresses of the registered and/or legal owners of each vehicle;
7. A description of the logo, color scheme, insignia, and any other distinguishing characteristics of applicant's vehicles;

8. Insurance in the manner and form required by this Chapter from a responsible, solvent insurance carrier authorized to issue public liability and property damage insurance in the state of California;

9. The full and true names, addresses and telephone numbers of all persons employed or intended to be employed, or with whom the applicant has contracted, leased or intends to contract with as driver operator of the applicant's vending vehicles, and in addition, their:

- a. California driver's license or other identification commonly accepted in commercial undertakings,, and
- b. Food worker's certificate.

10. If the applicant is a corporation, the name shall be stated exactly as set forth in its articles of incorporation. The applicant shall show the name and residence address of each of the officers, directors, and each stockholder, owning not less than ten percent of the stock of the corporation, and the address of the corporation itself, if different than the applicant's place of business. If the applicant is a partnership, the application shall show the name and residence address of each of the partners, including limited partners, and the address of the partnership itself, if different than the applicant's place of business;

11. All criminal convictions of the principals, operators, drivers, excluding minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature and sentence of each such conviction;

12. The applicant, if other than an individual, shall also furnish the following information:

- a. Each business address of the applicant for the three-year period immediately preceding the date of the application and the inclusive dates of each such business,
- b. The nature of the business or firm for the three-year period immediately preceding the date of the application, and
- c. The permit history of the applicant for the three-year period immediately preceding the date of the filing of the application, including whether such applicant, in previously operating in this or any other city, county, state or territory, has ever had any similar license or permit, or franchise revoked or suspended, and if so, the circumstances of such suspension or revocation;

13. Such other identification and/or information as the City Manager may require in order to discover the truth of the matters required to be set forth in the application; and

6.15.060 Investigation of Application.

The City Manager shall act to approve or deny an application for a Mobile Food Vendor's permit under this Chapter within a reasonable period of time and in no event shall the City Manager act to approve or deny said permit later than ninety days from the date the application was accepted as complete by the City Manager. Every Mobile Food Vendor permit

issued pursuant to this Chapter will terminate at the expiration of one year from the date of its issuance unless sooner suspended or revoked.

6.15.070 Permit - Issuance.

A. The City Manager shall grant the Mobile Food Vendor's permit if the City Manager finds that all of the following requirements have been met:

1. The required fees have been paid;
2. The application conforms in all respects to the provisions of this Chapter;
3. The applicant has not knowingly made a material misrepresentation of fact in the application;
4. The applicant has fully cooperated in the investigation of the application;
5. The applicant if an individual; or any of the directors, officers or stockholders holding more than ten percent of the stock of the corporation; or any of the partners, including limited partners, or profit interest holder, manager or other person principally in charge of the operation of the existing or proposed business of vending from a food vending truck or a natural person employed or contracted with to be a driver has not been convicted or pleaded nolo contendere or guilty within five years prior to his or her application for a permit to a misdemeanor or felony crime of moral turpitude or drug-related misdemeanor or felony crime, including, but not limited to:
 - a. the sale of a controlled substance specified in California Health Safety Code Sections 11054 through 11058;
 - b. the sale, distribution or display of harmful or obscene matter;
 - c. indecent exposure;
 - d. selling or disposing of lottery tickets;
 - e. permitted gambling, pool selling or bookmaking; or in the case of applications for an operator's permit, alcohol or drug-related traffic offenses.

B. The City Manager is specifically authorized to obtain state summary criminal history record information as provided for in Section 11105 of the California Penal Code. Any complaint for the above-listed charges pending before a court of law shall cause the application to be considered pending until adjudication of the complaint.

6.15.080 Permit - Denial.

A. If the City Manager finds that the requirements set forth in Section 6.15.070 have not been met, the City Manager shall deny the application for a Mobile Food Vendor's permit. In the event the application is denied by the City Manager, written notice of such denial shall be given to the applicant specifying the basis for such denial. Notice of denial shall be deemed to have been served if, in fact, it is personally served to the applicant or when deposited in the United States mail with prepaid postage and addressed to the applicant at his or her residence address as set forth in the application.

B. Any applicant whose application for a Mobile Food Vendor permit has been denied by the City Manager, may submit an appeal in writing to the City Clerk within fifteen days of such denial. The City Council may refer the appeal to a hearing officer.

6.15.090 Permit - Revocation.

A. Any vendor permit may be suspended or revoked by the City Manager for any of the following reasons:

1. Falsehood of any information supplied by the permittee upon which issuance of the permit was based;
2. Failure of the permittee to notify the City Manager within two weeks of any change occurring subsequent to the issuance of the permit in the information supplied by the permittee upon which issuance of the permit was based;
3. Failure of the permittee, or of any employees or subcontractors of the permittee, to comply with the regulations set forth in Sections 6.15.110 through 6.15.160 inclusive; or
4. Violation by the permittee, or any employee, subcontractor or independent contractor of the permittee, of any state law or municipal ordinance while in the course of conducting vending operations from food trucks pursuant to the permit.

B. No such suspension or revocation shall become effective until the permit holder has been notified in writing of the right of such permit holder to appeal the suspension or revocation. Notification of the permit holder shall be made either by personal delivery or by certified or registered mail, return receipt requested, addressed to the permit holder at such permit holder's residence address as set forth on the application for a permit. If an appeal is filed, the suspension or revocation shall be stayed and shall become effective only upon decision of the City Council or, at the option of the City Council, by a hearing officer. The suspension or revocation shall become effective after the timely appeal period has expired. The appeal shall be in writing and filed with the City Clerk within fifteen days of effective date of suspension or revocation.

C. No person whose permit is revoked shall be eligible to apply for a new permit for a period of one year following such revocation.

6.15.100 Mobile Food Vending Vehicle Regulations.

A. Each Mobile Food Vending Vehicle shall have a current, valid county of Riverside grade card/decals health inspection sticker affixed to the lower right side of the windshield and a current, valid business license decal affixed as specified in Section 5.04.200 of this code.

B. Each individual who drives, operates or vends from a Mobile Food Vending Vehicle shall have on his or her person a current, valid California driver's license and a food worker certificate pursuant to Section 6.07.020 of this Code, which he or she shall make available for inspection by law enforcement officials or code compliance officers upon request.

C. Condition/Appearance of Site.

1. The site where a Mobile Food Vending Vehicle is parked shall be maintained in a safe and clean manner at all times.
2. Exterior storage of refuse, equipment or materials associated with the food vending truck is prohibited.
3. The Mobile Food Vending Vehicle shall maintain vehicular and pedestrian circulation and access consistent with all local and state regulations.
4. Any Mobile Food Vending Vehicle parked out of the public right-of-way to conduct business must have the written consent of the property owner to do so. If such

a food vending truck has written permission from the property owner, up to four tall stand-up cocktail-type tables but, no chairs, no fences or other site furniture (permanent or otherwise) shall be permitted.

D. Litter Control.

1. Any Mobile Food Vending Vehicle licensed by the county of Riverside as a Category 4 or Category 5 mobile food facility shall provide a minimum of two thirty-two-gallon litter receptacles within fifteen feet of the vehicle. The receptacles will serve both employees and customers.

2. The Mobile Food Vending Vehicle vendor shall maintain the subject property and adjacent right-of-way free of litter on and within one hundred feet of the vending site.

3. All refuse shall be removed from the vending site and properly disposed of within thirty minutes of the close of vending for the day at that site.

E. Security.

1. The vendor shall install signage indicating that loitering is not permitted and customers may only remain on the lot for up to thirty minutes after receiving their food.

2. The vendor shall enforce the no-loitering rule.

3. The serving or consumption of alcohol shall be prohibited at vending sites.

F. Toilets and Handwashing Facilities. In order for a Mobile Food Vending Vehicle to remain parked and conducting business in one location longer than one hour, it must be situated within two hundred feet travel distance of a legally approved and permitted toilet and handwashing facility, or as otherwise approved by the City Manager, to ensure that restroom facilities are available to Mobile Food Vending Vehicle employees. The Mobile Food Vending Vehicle operator must have permission of the property owner to use the toilet and handwashing facility.

G. Mobile Food Vending Vehicles operating as part of a special event permitted by the City Manager shall comport with the permissions and restrictions of the approved permit.

6.15.110 Prohibited Conduct.

A. No person shall vend from a Mobile Food Vending Vehicle which is stopped, parked, or standing on any public street or parking lot within Downtown Palm Springs.

B. No person shall vend from a Mobile Food Vending Vehicle which is stopped, parked, or standing on any public street or parking lot when the following apply:

1. When the Mobile Food Vending Vehicle is parked within five hundred (500) feet of the nearest property line of any school serving students 18 years of age or younger, or any public park unless that school is a college, university, or vocational school that primarily serves students older than eighteen years of age, unless the Mobile Food Vending Vehicle is associated with a certified farmers' market that is open at the time that the food vending truck is conducting business.

2. When the posted speed limit on the public street, alley or highway is greater than thirty-five miles per hour;

3. When the Mobile Food Vending Vehicle is parked in violation of any other provision of this Code, or the California Vehicle Code;

4. When any part of the Mobile Food Vending Vehicle is open to prospective customers other than on the side of the vehicle next to the right side of the street, alley or highway;
 5. When the Mobile Food Vending Vehicle is not stopped, parked or standing on the right side of the street, alley or highway;
 6. When the prospective customer is standing or sitting in another vehicle;
 7. When the prospective customer is located in that portion of the street, alley or highway which is open to vehicular traffic;
- C. No person shall operate, or cause to be operated, any Mobile Food Vending Vehicle with sound-amplifying equipment in operation per Section 5.92.030 of this code.
 - D. No person shall back up a Mobile Food Vending Vehicle to make or attempt a sale.
 - E. No minor shall ride in or on a Mobile Food Vending Vehicle.
 - F. Such vehicles shall only operate Monday through Sunday as follows:
 1. October 1st through April 30th: nine a.m. to five p.m.
 2. May 1st through September 30th: nine a.m. to seven p.m.

6.15.120 Insurance Requirements.

- A. It is unlawful for any person to own, lease, drive, operate or cause or permit to be driven or operated any Mobile Food Vending Vehicle in the City unless such person has submitted with his or her application for a permit the required insurance policies outlined in this section, which shall be issued by an insurance company currently authorized by the insurance commissioner to transact business of insurance in the state of California, with an assigned policyholders' rating of A- (or higher) and financial size category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager. Such policies shall conform in all respects to the requirements of this Chapter.
- B. The required motor vehicle liability policy shall insure the owner, driver, and any other person using or responsible for the use of any Mobile Food Vending Vehicle with the consent, expressed or implied, of such owner, driver or person, against loss from the liability imposed upon such owner, driver or person by law for injury to, or death of, any person, or damage to property growing out of the maintenance, operation or ownership of any Mobile Food Vending Vehicle in an amount not less than one million dollars combined single limit for each accident, no aggregate. Automobile insurance shall be at least as broad as Insurance Service Office Form CA 00 01 covering bodily injury and property damage for all activities of the Mobile Food Vending Vehicle.
- C. The permittee shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office Form CG 00 01, in an amount not less than one million dollars per occurrence, two million dollars general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for: (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the permit.
- D. The permittee shall maintain workers' compensation insurance (statutory limits) and employer's liability insurance (with limits of at least one million dollars). The permittee shall

submit to the City Manager, along with the certificate of insurance, a waiver of subrogation endorsement in favor of the City of Palm Springs, its officers, agents, employees and volunteers.

E. The permittee may opt to utilize umbrella or excess liability insurance in meeting insurance requirements. In such circumstances, the permittee shall obtain and maintain an umbrella or excess liability insurance policy with limits of not less than four million dollars that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability. Such policy or policies shall include the following terms and conditions:

1. A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
2. Pay on behalf of wording as opposed to reimbursement;
3. Concurrency of effective dates with primary policies;
4. Policies shall "follow form" to the underlying primary policies; and
5. Insureds under primary policies shall also be insureds under the umbrella or excess policies.

F. Cancellation, termination, or reduction in coverage of any insurance policy filed with the City pursuant to this Chapter shall be just cause for the City Manager to revoke the license.

G. As a condition of being granted a license pursuant to this Chapter, the permittee shall promise, on an application form provided by the City Manager, to indemnify and hold the City of Palm Springs free and harmless from any and all liability, claims, loss, damages, or expenses, including attorney's fees and court costs, arising by reason of the death or injury of any person, including the permittee or any person who is an employee or agent of the permittee, or by reason of property damage to or destruction of any property, including property owned by the permittee or any person who is an employee or agent of the permittee.

H. Every insurance policy and every certificate of motor vehicle liability insurance filed within the City pursuant to the provisions of this Chapter shall contain the following endorsements:

1. It is hereby understood and agreed that, notwithstanding expressions consistent with or contrary thereto, each policy is expressly issued to cover a motor vehicle regulated by the provisions of Chapter 10 of the Palm Springs Municipal Code. Each policy shall inure to, and be for the benefit and protection of, anyone who shall sustain any damages or injury, or to the heirs, personal representatives, administrators, executors or assigns of any such person who may be so damaged or injured or suffer death, by reason of the operation of the motor vehicle or from the defective condition thereof. Liability under this policy shall in no manner be abrogated or abated by the death or dissolution of the insured;
2. There is continuing liability up to the full amount of each policy, notwithstanding any action or recovery thereon;
3. No cancellation or reduction in coverage of each policy for any reason whatsoever shall become effective until the expiration of thirty days after written notice of such cancellation or reduction in coverage shall have been given to the City Clerk of

the City of Palm Springs. Said period of thirty days to commence running from the date said notice is actually received in the office of the City Clerk;

4. All such policies shall provide, or be endorsed to provide, that the City of Palm Springs and its officers, officials, employees, and agents shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance under this permit. This provision shall also apply to any excess liability policies;

5. All insurance coverage maintained or procured pursuant to this permit shall be endorsed to waive subrogation against the City of Palm Springs, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow the permittee or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Permittee shall waive its own right of recovery against the City of Palm Springs;

6. All insurance coverages shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

I. The permittee shall give City Manager prompt and timely notice of claims made or suits instituted that arise out of or result from the permittee's performance under this permit, and that involve or may involve coverage under any of the required liability policies.

J. The permittee shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its services, permittee shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees and the public appropriate to the nature of the work and the conditions under which the work is to be performed.

K. Requirements of specific coverage features or limits contained in this section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

L. The permittee acknowledges and agrees that any actual or alleged failure on the part of the City Manager to inform the permittee of noncompliance with any requirement imposes no additional obligations on the City of Palm Springs nor does it waive any rights hereunder.

6.15.130 Inspection of Mobile Food Vending Vehicles.

A. In addition to other equipment required by law, each Mobile Food Vending Vehicle shall be equipped with the following:

1. A convex mirror mounted so that the occupant of the driver's seat can see the area in front of the truck which is obscured by the vehicle's hood; and
2. A back-up alarm audible for a distance of at least one hundred feet.

B. In addition to such inspection of the Mobile Food Vending Vehicle as may be required by other agencies, the City's Fire Marshal shall perform an inspection of each Mobile Food Vending Vehicle before it is put into service within city limits, and annually thereafter, coincident with renewal of the Mobile Food Vendor's permit. The City's Fire Marshal shall issue a certificate of inspection to Mobile Food Vending Vehicles compliant with fire safety regulations.

6.15.140 Required Signs and Lettering.

A. There shall be displayed in a conspicuous place on both the front and back of the Mobile Food Vending Vehicle appropriate warning signs or lettering, e.g., for Mobile Food Vending Vehicles permitted by the county of Riverside as Category 3 mobile food facilities (ice cream trucks) "CAUTION CHILDREN." The lettering shall not be less than six inches in height and lettering shall be in contrast to the color of the background upon which they are placed.

B. There shall be displayed in a conspicuous place on both the right and left side of the Mobile Food Vending Vehicle lettering permanently affixed showing the nature of the company or operator of the Mobile Food Vending Vehicle and the business address and telephone number of the owner or operator. The lettering shall not be less than four inches in height, and shall be in contrast to the color of the background upon which they are placed.

C. No other lettering, numbering, price lists, signs or insignia shall be displayed on the right and left side of the Mobile Food Vending Vehicle so as to interfere with the visibility of the lettering required in subsection B of this Section.

6.15.150 Applicability of Regulations to Existing Businesses.

The provisions of this Chapter shall be applicable to all persons and businesses described in this Chapter whether the activities described in this Chapter were established before or after the effective date of the ordinance enacting this Chapter into law. All such persons and businesses shall have thirty days from said effective date to file a completed application for vendors' permits with the City Manager.

6.15.160 Nuisance; Violation and Penalty.

A. Any Mobile Food Vending Vehicle operated contrary to the provisions of this Chapter is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinder thereof, in the manner provided by law, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating a Mobile Food Vending Vehicle contrary to the provisions of this Chapter.

B. Every person, whether acting as an individual owner, employee of the owner, operator, or employee of the operator, or whether acting as an agent or independent contractor for the owner, employee, or operator, or acting as a participant or worker in any way directly or indirectly sells or distributes food or beverage from a Mobile Food Vending Vehicle as defined in this Chapter without first obtaining a Mobile Food Vending Vehicle permit from the City Manager, or that otherwise violates any provision of this Chapter, shall be punishable as specified in Section 1.01.140 and 1.01.150 of this Code.

6.15.170 Exceptions.

The provisions of Section 6.15.110 shall not apply to:

A. Mobile Food Vending Vehicles servicing construction sites.

- B. The delivery or sale of pre-ordered goods or services to a private residence or business with the prior consent of the owner, occupant, lessee, or the designee of such persons, including without limitation employees,
- C. Food vending on school property with the consent of school authorities.
- D. Food vending on private property with the consent of the owner, lessee, or legal occupant of the property and with a valid land use permit, if applicable.

SECTION 3. Subsection (a) of Section 12.12.055 of the Palm Springs Municipal Code is amended to read:

(a) No person shall sit or lie down upon any public sidewalk, or upon a blanket, chair, stool, or any other object placed on the public sidewalk, within the area generally bounded by both sides of Vista Chino on the north, both sides of the alignment of Palm Canyon Drive, Alejo Road, Belardo Road, North Museum Drive, E. Tahquitz Canyon Way, and Belardo Road on the west, both sides of Ramon Road on the south, and both sides of Palm Canyon Drive and Indian Canyon Drive on the east.

SECTION 4. Upon the effective date of this Ordinance, Urgency Ordinance No. 1864 is repealed and no longer in effect.

SECTION 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect (3) days after passage.

PASS, APPROVED, AND ADOPTED this _____ day of _____ 2014.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK