

ORDINANCE NO. 361-2019

AN ORDINANCE ADDING CHAPTER 5.15, FOOD CARTS, TO THE MUNICIPAL CODE, AND DECLARING AN EMERGENCY.

Findings

A. The City Council of the City of Hubbard finds it in the best interest of the City to adopt requirements for Food Cart businesses within the city limits of Hubbard.

BASED ON THE FINDINGS, THE CITY OF HUBBARD ORDAINS AS FOLLOWS:

Section 1. The City of Hubbard hereby adopts Chapter 5.15 as set forth in the attached document marked as “Exhibit A” attached hereto and by this reference incorporated herein and entitled Chapter 5.15, Food Carts.”

Section 2. The City Council for the City of Hubbard deems and desires it necessary for the preservation of the health, peace and safety of the City of Hubbard that this Ordinance take effect at once, and therefore, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

The foregoing Ordinance was passed by the City Council of the City of Hubbard this day of March 12, 2019, by the following vote:

Ayes	_____
Nays	_____
Absent	_____

Whereupon, the Mayor declared the motion to be carried and the Ordinance adopted.

Passed and approved by the City Council of the City of Hubbard this 12th day of March 2019.

Charles Rostocil, Mayor

ATTEST:

Approved by the City Attorney:

Vickie L. Nogle, MMC
Director of Administration/City Recorder

Beery Elsner and Hammond LLP

Chapter 5.15 FOOD CARTS

Sections:

- 5.15.010 Definitions.**
- 5.15.020 Food Carts Prohibited.**
- 5.15.030 Food Cart Standards.**
- 5.15.040 Permits, Application Materials, Fees.**
- 5.15.050 Renewals, Transfers.**
- 5.15.060 Violations, Appeals, Penalty.**

5.15.010 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein unless the context requires otherwise:

- (1) “Food Cart” means a mobile vending unit, either towed by trailer hitch or self-propelled, used to sell food and beverages intended for consumption on-site or to be carried off-site by the customer.
- (2) “Food and beverages” sold by food carts shall not include any substance regulated by the Oregon Liquor Control Commission (OLCC), nor does it include fresh produce similar to a farm stand.
- (3) “Footprint” means the entire area occupied by a food cart’s operations, including but not limited to food cart, seating area, trash cans, temporary fencing, planters, etc.

5.15.020 Food Carts Prohibited.

No food cart shall operate in the City of Hubbard unless permitted herein, or as otherwise exempted under HMC 5.10 Outdoor Merchandising and Outdoor Entertainment.

5.15.030 Food Cart Standards.

The following standards shall apply to all food carts permitted herein:

- (1) Individual food carts shall be permitted for one calendar year on a specific property.
- (2) Food carts shall only be permitted on a developed private property. No portion of a food cart’s footprint shall be located in public right-of-way, unless authorized to do so through a city-permitted event under HMC Chapter 5.10.
- (3) Food carts shall only be permitted in City zones where restaurants are permitted, which are the RC – Residential Commercial, C – General Commercial, and IC – Industrial Commercial zones, unless otherwise authorized through a city-permitted event under HMC Chapter 5.10.
- (4) No more than two (2) food carts shall be permitted on the same property simultaneously. For the purposes of this section, separate but contiguous tax lots may be considered one property when previously developed under the same Site Development Review approval.
- (5) No part of the food cart footprint shall impede vehicular or pedestrian circulation, ingress, egress, or clear vision areas, as defined by the city.
- (6) Food carts shall not be required to provide additional off-street parking. The total food cart footprint shall not occupy more than fifteen-percent (15%) of a developed business’ required off-street parking, as approved in the development’s Site Development Review, or as determined by the parking ratios provided in the Hubbard Development Code Section 2.203, if no land use approval record is available.

- (7) Food carts shall be set back from all property lines a minimum of $\frac{1}{2}$ the setback distance of the underlying zone district, but never less than five (5) feet from any property boundary.
- (8) Food carts shall be set back a minimum of six (6) feet from all structures.
- (9) Food carts shall be operated on fully-inflated wheels, and shall be mobile at all times.
- (10) Drive-throughs shall not be permitted.
- (11) Parking and pedestrian circulation for customers of the food cart shall be located on a paved surface. The food cart itself may be permitted to be located on a graveled surface adjacent to the paved surface.
- (12) Food carts shall provide sufficient trash and recycling receptacles onsite. Food cart owners and operators shall be responsible for the disposal of trash and general site cleanup, daily (HMC 8.15.020(2)).
- (13) Food carts may provide seating for up to twelve (12) people, if the footprint size limit allows for it.
- (14) Portable storage structures shall not be permitted on site in support of the food cart operation.
- (15) Extension cords to the food cart shall be appropriately sized for the power supply. Generators shall not be permitted.
- (16) Food carts shall have a written agreement with the property owner, guaranteeing access to restroom and hand-washing facilities for food cart employees and customers, for the full duration of the food cart operating hours. No portable toilet facilities shall be permitted on site in support of the food cart operation (HMC 8.15.020(1)).
- (17) A host business shall only supply water to a food cart with a valid Food Cart Permit issued for the same property (HMC 13.15.080).
- (18) Food carts shall carry at all times a fire extinguisher appropriate for the specific equipment and operation of the business. Other requirements of the Oregon Fire Code may apply.
- (19) Food cart wastewater shall be contained on the mobile unit and shall be disposed of by a licensed disposal vendor. Food cart wastewater shall not be permitted to enter the City of Hubbard wastewater or storm drain system, nor shall it be released onto any property within the City of Hubbard.
- (20) Temporary fencing erected as a component of the food cart footprint shall not be taller than three (3) feet in height, and shall be subject to the city's clear vision standards (HDC 2.209.07).
- (21) Any temporary canopy or tent structure provided by the food cart operator for customer seating areas shall be the responsibility of the food cart operator. The city shall not be responsible for inspecting the anchoring of such structures. Tents and canopies shall be capable of being moved at any time. Propane and natural gas heaters shall not be allowed under a tent structure.
- (22) Food cart signage is only permitted when affixed to the cart structure, or located on the interior of a food cart window. Signage attached to a mobile food cart shall not count toward the total commercial signage size allocation of the host property. Portable signs and sandwich board signs shall not be permitted for food carts. In no case shall a private sign, sign structure, or portion thereof be located within the Pacific Highway 99E road right-of-way or within a public right-of-way under the jurisdiction of the City of Hubbard (HDC 2.206).
- (23) Permitted hours of operation for a food cart shall coincide with the business hours of the host business providing the restrooms and hand washing facilities. Otherwise, the permitted hours of operation shall be 6am to 10pm.
- (24) Food carts and all related amenities shall be removed from the site if out of operation for more than two (2) weeks for any reason.

5.15.040 Permits, Application Materials, and fees.

- (1) Except as exempted under the provisions of HMC 5.10.030, all persons shall apply for and be granted a Food Cart Permit by the city recorder before operating a food cart within the city of Hubbard.
- (2) A copy of a valid Food Cart Permit shall be available in the food cart at all times.
- (3) A permit shall be issued to a specific food cart, on a specified property location, for each calendar year. A food cart may be approved for more than one site-specific Food Cart Permit simultaneously.
- (4) The Food Cart Permit fee shall be \$250.00 for one calendar year for a specific food cart, at each approved location. The fee shall be the same for both new and renewal applications. The fee shall not be pro-rated.
- (5) Complete permit applications and renewals shall be submitted to the city not less than 15 days prior to planned beginning operation of a food cart. Incomplete applications shall not be processed by the city until all required information is received by the City.
- (6) No land use review shall be required for the operation of one (1) or two (2) food carts on a property. Food Cart Permit applications shall be processed administratively by the city recorder in consultation with other city departments as appropriate.
- (7) Clusters or pod developments of three (3) or more food carts shall require Site Development Review approval by the city, subject to the procedures and standards of pertinent sections of the Hubbard Development Code. Such land use review approvals shall be secured and satisfied prior to making Food Cart Permit application to the city for the subject property.
- (8) A complete Food Cart Permit application shall include:
 - (a) Food Cart Permit application form signed by the food cart owner, the food cart operator (if different than the food cart owner), the host business owner, and the host property owner (if different than the business owner).
 - (b) Signed agreement with authorized representative of host business regarding access and hours of shared restrooms and hand-washing facility, water hook-ups, power hook-ups, and dumpster access where applicable;
 - (c) Basic site plan indicating the following: property dimensions, location of food cart footprint including all site amenities (benches, tables, chairs, lighting, fencing, etc), location and size of water and power hook-ups, setbacks from nearby property boundaries, setbacks from nearby structures, number of paved parking spaces occupied by the food cart footprint.
 - (d) Photo of subject food cart.
 - (e) Photo or description of proposed signage.
 - (f) Description of proposed operation: cooking equipment, number and size of propane tanks, method of storing extra propane tanks, size of extension cord(s), etc.
 - (g) Copies of all other related permits, including but not limited to: Marion County Environmental Health, Oregon Department of Motor Vehicles (DMV) registration, etc.
- (9) No person shall operate a business within the city without first obtaining business registration and paying the fee prescribed. The annual \$50 business registration fee shall be in addition to the annual Food Cart Permit fee and any other requirements imposed by the city of Hubbard (HMC 5.01).

(10) A Food Cart Permit shall only be valid with a final inspection signature by a representative of the Hubbard Fire District within one week of opening for operation at each permitted location, each calendar year.

(11) The approved food cart operator shall be responsible for notifying the city of any changes to the information submitted with the Food Cart Permit application package, including but not limited to: primary contact information, hours of operation, site amenities, etc.

5.15.050 Renewals, Transfers

(1) Food Cart Permits may be renewed each calendar year with the city for as long as the business remains in compliance and in good standing with the city.

(2) Renewal applications shall be submitted at least 15 days prior to the expiration of the previous year's permit.

(3) A valid renewal application shall be signed by all parties each calendar year. Renewal applications shall be accompanied by copies of all updated permits, and the associated fee. Renewal applications shall not be required to include all other supportive application materials required of a new application in HMC 5.15.040 if no changes are proposed from the previous year.

(4) Food Cart Permits are not transferable. A change of food cart unit, food cart owner, food cart location, property location, or host business shall require a new application accompanied by all the supportive materials and fee.

5.15.060 Violations, Appeals, Penalty.

(1) Any person violating any of the provisions of this chapter shall be served by the City of Hubbard with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Notice shall be in written form, personally delivered, or mailed and accepted, certified, return receipt requested, by the person to be charged. The person to be charged or notified may be the owner or the occupant of the premises.

(2) Permits may be denied or revoked by any authorized representative of the City of Hubbard upon the issuance of a complaint or citation by the authorized representative of the city alleging a violation of city codes and ordinances occurring as a result of the food cart operation.

(3) Denied or revoked permits may be appealed to the City Council.

(4) Any person who shall continue any violation beyond the time limit stated in such notice shall be guilty of a Class I civil infraction and on conviction thereof shall be fined in an amount not to exceed \$500.00 for each violation. However, if a violation of a provision is identical to a state statute with a lesser penalty, punishment shall be limited to the lesser penalty prescribed by state law. Each day in which such violation shall continue shall be deemed a separate offense. Any person violating any of the provisions of this chapter shall become liable to the city of Hubbard for any expenses, loss or damage occasioned by the city by reason of such violation. (Ord. 331-2013 § 6)