

ORDINANCE NO. 375-2021

AN ORDINANCE AMENDING HUBBARD MUNICIPAL CODE TO REQUIRE ICE CREAM VENDORS TO COMPLY WITH HMC CHAPTER 5.10 AND PASS CRIMINAL BACKGROUND CHECKS

WHEREAS, in 2020 the City Council updated HMC chapter 5.05 – Peddling and Soliciting and removed a permitting requirement; and

WHEREAS, ice cream vendors were previously subject to a permit requirement under HMC chapter 5.05; and

WHEREAS, HMC chapter 5.10 regulates outdoor merchandising and entertainment, and includes a permit requirement; and

WHEREAS, outdoor merchandising means the sale, display for sale, rental of or storage of merchandise, including food and drink, outside of an enclosed building space; and

WHEREAS, HMC chapter 5.10.030 exempts certain types of uses and activities from regulation, including ice cream vendors subject to the permitting requirements under the former HMC chapter 5.05 – Peddling and Soliciting; and

WHEREAS, ice cream vendors are no longer regulated by HMC chapter 5.05- Peddling and Soliciting and meet the definition of outdoor merchandising under chapter 5.10, but are exempted from those regulations; and

WHEREAS, the City Council wishes to remove ice cream vendors from the exemptions Chapter 5.10.030 and therefore require ice cream vendors to obtain a permit similar to other outdoor food vendors; and

WHEREAS, the City Council wishes to implement a criminal background check requirement for ice cream vendors; and

WHEREAS, the City Council also wishes to clean up a typographical error in HMC chapter 5.10 and include a requirement that permittees demonstrate compliance with the City's insurance requirements prior to receiving a permit.

NOW THEREFORE, THE CITY OF HUBBARD ORDAINS AS FOLLOWS:

Section 1. HMC 5.10.010 Definitions is amended as follows:

(5) "Ice cream vendors" means a person who sells or offers to sell ice cream and related food items from a vehicle to the general public for immediate consumption.

Section 2. HMC 5.10.030 Exemptions is amended as follows:

~~(10) Ice cream vendors subject to Chapter 5.05 HMC, Peddling and Soliciting.~~

~~(11)~~ (10) The sale of living plant materials.

~~(12)~~ (11) Christmas tree sales lots.

Section 3. HMC 5.10.040 Permits and fees is amended as follows:

(1) Except as exempted under the provisions of HMC 5.10.030(6), all persons, community organizations, corporations or other organizations, whether for profit, not for profit, charitable or otherwise, shall apply for and be granted a permit by the city recorder before conducting outdoor ~~marketing~~ merchandising and outdoor entertainment events within the city of Hubbard.

(2) Permits shall be granted by the city recorder upon the filing of a completed application, in form obtained from the city recorder, including the payment of an application fee therefor, as provided herein and demonstrating compliance with the city of Hubbard's insurance requirements. Ice cream vendors will also be required to pass a criminal background check. The permittee may then engage in outdoor merchandising and outdoor entertainment events conditioned only upon compliance by the permittee, its representatives, agents and invitees, with all codes and ordinances of the city of Hubbard, including but not limited to the provisions of Chapter 9.25 HMC et seq. establishing noise regulations for the city of Hubbard.

Section 4: This Ordinance shall be effective thirty days from its adoption.

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 DATE by the following votes:

AYES: _____

NAYS: _____

Charles Rostocil, Mayor

ATTEST:

Vickie Nogle, Director of Administration/City Recorder

APPROVED BY THE CITY ATTORNEY:

Beery, Elsner & Hammond, LLP