

ORDINANCE NO. 829

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL AMENDING THE CODIFIED ORDINANCES REGARDING FOOD AND FOOD ESTABLISHMENTS AND TEMPORARY USES FOR MOBILE FOOD FACILITIES

The City Council of the city of Imperial does ordain as follows:

Section 1: Section 24.11.120 Temporary Use Regulations is hereby amended to include: Mobile Food Facilities

Section 2: Article IV (Food and Food Establishments) is hereby amended to include to read as follows:

**Chapter 9, Article IV
Mobile Food Facilities**

- Section 9-26 Findings
- Section 9-27 Purpose and intent
- Section 9-28 Definitions
- Section 9-29 Public health department permit requirement
- Section 9-30 Business license requirement
- Section 9-31 Temporary permit for a mobile food facility required
- Section 9-32 Application process
- Section 9-33 Health and safety investigation and inspection
- Section 9-34 Vendor's temporary permit for mobile food facility issuance
- Section 9-35 Vendor's permit denial and renewal
- Section 9-36 Revocation
- Section 9-37 Mobile food facility regulations
- Section 9-38 Prohibited conduct for mobile food facilities
- Section 9-39 Temporary uses and special events
- Section 9-40 Public nuisance declaration.
- Section 9-41 Criminal penalties
- Section 9-42 Severability

9-26 Findings.

The City Council adopts this article based upon the following findings:

- (a) In accordance with section 12-1 of the City Code, businesses operating within the city require a city-issued business license.
- (b) Uses not specifically listed as permitted or prohibited shall be deemed to be prohibited unless determined to be a use similar in development characteristics. Mobile food vendors are currently unlisted and therefore, prohibited.

- (c) The state has enacted sections 114294-114327 of the Health and Safety Code with detailed rules and regulations pertaining to the operation of mobile food facilities. This ordinance hereby adopts all definitions and regulations stipulated in sections 114294-114327 of the Health and Safety Code, or as modified by reference. Moreover, the Division of Environmental Health of the Imperial County Public Health Department or designee will enforce sections 114294-114327 of the Health and Safety Code, as modified.
- (d) To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City Code to recognize and regulate mobile food facilities consistent with the Health and Safety Code by listing said facilities in the City Code.
- (e) This article is found to be categorically exempt from environmental review pursuant to CEQA guidelines section 15061(b)(3) in that the council finds and determines that there is nothing in this article or its implementation that could foreseeably have any significant effect on the environment.

9-27 Purpose and intent.

It is the purpose and intent of this article to regulate the licensing requirements, hours of business, and location of operations for mobile food vendors in order to promote the health, safety, and general welfare of residents and businesses within the city. Mobile Food Facilities shall be authorized to operate on private property with a city-issued temporary permit for a mobile food facility issued by the City of Imperial Community Development Department. Mobile Food Facilities parked on public property shall maintain a City of Imperial business license and shall abide by all vehicle code parking regulations.

9-28 Definitions.

For the purpose of this article, the definitions set forth in California Health and Safety Code sections 114294-114327, unless otherwise set forth herein.

9-29 Public health department permit requirement.

All mobile food facilities shall receive a permit and all authorizations required by the Imperial County Public Health Department. The City shall have the discretion to not accept an application for a temporary permit for a mobile food facility until the Imperial County Public Health Department has issued all permits to the applicant.

9-30 Business license requirement.

All mobile food facilities shall be required to apply for and obtain a business license pursuant to Chapter 12 of the City Code. A business license shall be required for the mobile food business facility, and a business license certificate shall be displayed within plain view at each facility.

9-31 Temporary permit for a mobile food facility requirement.

No person shall operate or cause the operation of a mobile food facility on private property in the city without a temporary permit for a mobile food facility issued pursuant to this chapter and any other license or permit required under any other chapter of this Code. The temporary permit for a mobile food facility will be valid with a one-time temporary permit fee payment, so long as the City's annual business license remains active and without any lapse in coverage dates.

9-32 Application process.

Any person desiring to obtain a temporary permit for a mobile food facility on private property that involves processing of food shall obtain a temporary permit for a mobile food facility application from the Community Development Department. Permit issuance fees required under this chapter shall be in addition to any license, permit or fee required under any chapter of this Code.

9-33 Health and safety investigation and inspection.

At any time, the city shall have the ability to inspect and re-inspect the applicants or approved mobile food facility(ies) if it is determined that such inspection or re-inspections are necessary to ensure the health and welfare of the public.

9-34 Vendor's temporary permit for mobile food facility issuance.

The Community Development Director or designee(s), within thirty (30) days, shall grant the vendor's temporary permit for mobile food facility if the Community Development Director or designee finds that all of the following requirements have been met:

- (1) The required fees have been paid;
- (2) The application conforms to all the provisions of this chapter and other chapters of the Code;
- (3) The applicant has not knowingly made a material misrepresentation of fact in the application; and
- (4) The applicant has fully cooperated in the investigation of the application.

9-35 Vendor's permit denial and renewal.

(a) If the Community Development Director or designee finds that the requirements set forth in section 24.11.120 (N) have not been met, the Community Development Director or designee shall deny the application for a temporary permit for a mobile food facility. In the event, the application is denied by the Community Development Director or designee, written notice of such denial shall be given to the applicant specifying the basis for such denial and served through U.S. Mail to the address listed in the application. Notice of denial shall be deemed to have been served, if, in fact, it is personally served to the applicant or five (5) days after such notice is deposited in the United States mail with prepaid postage and addressed to the applicant as forth in the application.

(b) Any applicant whose application for a temporary permit for a mobile food facility has been denied by the Community Development Director or designee may submit an appeal in writing to the City Clerk within fifteen (15) days of such denial. Appeals will be heard by the City Council.

(c) The city reserves the right to terminate the temporary permit for a mobile food facility if the permittee is in violation of any federal, state or local laws.

9-36 Revocation.

(a) Any temporary permit for mobile food facility may be suspended or revoked by the Community Development Director or designee 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 Community Development Director or designee within two (2) weeks of any change occurring subsequent to the issuance of the permit in the information supplied by the permittee upon which issuance of the permittee was based;
- (3) Failure of the permittee, or of any employees or subcontractors of the permittee, to comply with the City Code; 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 mobile food facilities that process foods (e.g., cooking, frying, grilling, etc.)

(b) No such suspension or revocation shall become effective until the permit holder has been notified and acknowledged 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, address to the permit holder at such permit holder's residence address as set forth on the temporary permit for a mobile food facility application. If an appeal is filed, the suspension or revocation shall be stayed and shall become effective only upon decision of the City Council. 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 (15) 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 (1) year following such revocation.

9-37 Mobile food facility regulations.

(a) Each mobile food facility shall have a current public health department health inspection permit, and valid Imperial business license posted in a conspicuous location visible to the public.

(b) Regulations for mobile food facilities, processing food:

- (1) Eligible zones. Mobile food facilities that process foods for vending, which involve cooking, frying, and grilling are allowed operate on private property and from the right-of-way for a duration not to exceed eight (8) hours, and not to extend past eleven (11) p.m. Written authorization from the property owner(s) within the following zoning designations: C-1 (Commercial Neighborhood), C-2 (Commercial General), VC (Village Commercial), I-1 (General Industrial), I-2 (Rail Served Industrial) is required. Mobile food facilities that process foods involving cooking, frying, and grilling are allowed to operate from the right-of-way and on private property for contracted catering services during private social events within residential zones.
- (2) Vending from the right-of-way. Processing mobile food facilities are allowed to park and operate on the public right-of-way for no more than eight (8) hours except when the following apply:
 - a. When the posted speed limit on the public street is greater than thirty-five (35) miles per hour;
 - b. When the mobile food facility is parked in violation of any other provision of this Code, or the California Vehicle Code;
 - c. When the prospective customer is located in that portion of the street or alley which is open to vehicular traffic.
- (3) Site furniture. Tables and chairs shall be allowed within the mobile food facility's designated space as defined in the site plan. Tables and chairs shall not be permanently affixed and shall be moveable. Portable restrooms, fences, or other site furniture (permanent or otherwise) shall be prohibited.
- (4) Parking and parking lot requirements. The site where a mobile food facility is parked shall consist of an all-weather road surface with adequate lighting and parking and be maintained in a safe and clean manner at all times.
- (5) Exterior storage and refuse. Exterior storage, equipment or materials associated with the mobile food facility is prohibited, unless expressly allowed in this article. All refuse shall be removed from the vending site and properly disposed of within thirty (30) minutes of the close of vending for the day at the site. A minimum of two (2) thirty-two (32) gallon litter receptacles and one (1) thirty-two-gallon organic waste receptacle within fifteen (15) feet of the vehicle shall be provided. The receptacles will serve both employees and customers. All refuse shall be transported back to the commissary for proper disposal.

- (6) **Signage.** Signs placed in or on the mobile food facility are permitted. Banners, windfeathers, vehicle signs or other free-standing signage is prohibited. Vehicle signs used for the purpose of identifying an on-site business, directional information to an on-site business are prohibited if the vehicle on which the sign is displayed is not used for business activities and the primary purpose of such vehicle is the display of signs.
 - (7) **Accessibility.** The mobile food facility shall maintain vehicular and pedestrian circulation and access consistent with the Americans with Disabilities Act and all local and state regulations.
 - (8) **Restroom requirements.** Mobile food facilities that are parked and are conducting business in one (1) location for a period longer than one (1) hour must be situated within two hundred (200) feet travel distance of a legally approved restroom. Portable restrooms shall be prohibited for the use of employees or customers.
 - (9) **Special events.** Mobile food facilities operating as part of a special event permitted by the city shall comply with the requirements of the approved permit for that specific event.
- (c) **Regulations for non-processing mobile food facilities:**
- (1) **Eligible zones.** Non-processing mobile food facilities are those that sell pre-packaged foods. These types of mobile food facilities typically include ice cream trucks, and paleta carts. Ice cream trucks and paleta carts are not allowed to be stationary for more than eight (8) hours. Non-processing mobile food facilities selling pre-packaged foods are allowed to operate from the right-of-way citywide and on private property for contracted catering services during private social events within residential zones.
 - (2) **Vending from the right-of-way.** Non-processing mobile food facilities where foods are commercially pre-packaged are allowed to park and operate on the public right-of-way for no more than eight (8) hours, except when the following apply:
 - a. When the posted speed limit on the public street is greater than thirty-five (35) miles per hour;
 - b. When the mobile food facility is parked in violation of any other provision of this Code, or the California Vehicle Code;
 - c. When the prospective customer is located in that portion of the street or alley which is open to vehicular traffic.
 - (3) **Site furniture.** No site furniture shall be allowed.

- (4) Noise. Sound from ice cream trucks shall comply with the noise regulations of the residential zone.
- (5) Special events. Non-processing mobile food facilities operating as part of a special event permitted by the city shall comply with the requirements of the approved permit for that event.
- (6) Vending in public parks or facilities. Non-processing mobile food facilities desiring to vend from public parks or facilities are required to obtain a permit from the Parks and Recreation Division. The city reserves the right to rotate vendors on a monthly basis.
 - a. Non-processing mobile food facilities are permitted to operate on sidewalks directly adjacent to Eager Park, Anthony Redondo Park, CA Irvin Park and Joshua Park.
 - b. Non-processing mobile food facilities permitted to operate on sidewalks directly adjacent to the above-listed parks may sell goods for a duration not exceeding eight (8) hours and must not extend beyond 10:00 PM.

9-38 Prohibited conduct for mobile food facilities.

- (a) No food shall be displayed or sold from any place other than the permitted mobile food facility at any time. No additional tables shall be allowed for sales, storage, preparation or distribution in the area adjacent to the mobile food facility except when operating at an approved community event or with prior approval from the department of public health.
- (b) No person shall operate, or cause to be operated, any mobile food facility with sound amplifying equipment; unless it complies with the noise limits established in City of Imperial's General Plan Noise Element.
- (c) No lighting, except localized lighting that is used on or in the mobile food facility for the purpose of inside food preparation and menu illumination.
- (d) No signs other than those exhibited on or in the mobile food facility.
- (e) No selling or serving of alcohol.
- (f) No verbal solicitation of business from pedestrians or persons in vehicles, and no sale to persons in vehicles.
- (g) No obstruction or interference with the free flow of pedestrian or vehicular traffic, including but not limited to access to or from any parking lot, business, public building, or dwelling unit.
- (h) The mobile food vendor shall not discharge any liquid (e.g., grease, oil, water) onto or into city streets, storm drains, catch basins, or sewer facilities.

- (i) No restriction of visibility area sight distance at any driveway or intersection.
- (j) No mobile food facility operating on private property that processes foods shall be stationary for a period longer than twelve (12) hours. The mobile food facility shall be removed from the business location(s) daily and shall be stored at the commissary's location or other location approved by the city.

9-39 Temporary uses and special events.

Mobile food vending as part of a special event shall be subject to the special event permitting requirements of the Parks and Recreation Division.

9-40 Public nuisance declaration.

Any violation of this article is hereby declared to be unlawful and a public health nuisance and may be abated by the city, irrespective of any other remedy provided in this chapter.


9-41 Criminal penalties.

- (a) Any person violating any provision of this article shall be guilty of an infraction or misdemeanor as hereinafter specified. Such individual shall be deemed guilty of a separate offense per day during which any violation of this article is committed or allowed to exist.
- (b) Any individual convicted of a violation of this article shall be:
 - (1) Guilty of an infraction and punished by a fine of not less than fifty dollars (\$50.00), but not exceeding one hundred dollars (\$100.00) for the first offense.
 - (2) Guilty of an infraction and punished by a fine of not less than one hundred dollars (\$100.00), but not exceeding two hundred dollars (\$200.00) for the second offense.
 - (3) The third and subsequent offenses shall constitute misdemeanor and shall be punishable by a fine of not less than five hundred dollars (\$500.00), but not exceed one thousand dollars (\$1,000.00), imprisonment of up to six (6) months in the county jail, or both.
 - (4) Notwithstanding subsections a) and b) above, the first or second offense may be charged and prosecuted as misdemeanor.
- (c) Payment of any penalty herein shall not relieve any individuals from the responsibility of correcting the violations as found by the enforcement officer.
- (d) Any person found not in compliance with state law and/or this article is subject to citation, permit suspension/revocation, lien, or other legal action as deemed necessary by the city or public health department.

9-42 Severability.


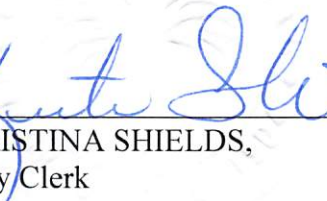
The provisions of this article are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this article, or the application thereof, to any person, establishment or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this article.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Imperial, this 18th day of September, 2024.



ROBERT AMPARANO,
Mayor

ATTEST:



KRISTINA SHIELDS,
City Clerk


CERTIFICATION

I, Kristina Shields, City Clerk of the City of Imperial, do hereby certify that the foregoing Ordinance No. 829 was introduced and had its 1st reading on September 4, 2024 and was passed by the following roll call vote:

AYES: Burnworth, Mendoza, Obeso-Martinez, Tucker, Amparano
NOES: None
ABSENT: None
ABSTAIN: None

I, Kristina Shields, City Clerk of the City of Imperial, do hereby certify that the foregoing Ordinance No. 829 had its 2nd reading on September 18th, 2024 and was passed and adopted by the following roll call vote:

AYES: Burnworth, Mendoza, Obeso-Martinez, Tucker, Amparano
NOES: None
ABSENT: None
ABSTAIN: None



KRISTINA SHIELDS,
City Clerk