

ORDINANCE NO. 2014-398

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LOS ALTOS REPEALING SECTION 8.20.070 AND ADDING A
NEW CHAPTER 8.34 TO THE LOS ALTOS MUNICIPAL CODE
ENTITLED “MOBILE VENDORS”**

WHEREAS, ensuring that mobile vendors are operated safely benefits the health, safety and welfare of all residents, patrons and businesses of the City of Los Altos (“City”); and

WHEREAS, in September 2013 City residents petitioned the City Council for the regulation of mobile vendors because of the adverse impacts they have on residential neighborhoods and due to their proximity to local schools; and

WHEREAS, mobile vendors create a potential for safety hazards, including interfering with motorists and pedestrians; limiting visibility when parked due to their height and bulk; creating pedestrian conflicts on already congested sidewalks, particularly in the residential areas; preventing normal turnover of the City’s very limited on-street parking spaces, resulting in motorists becoming distracted and slowing traffic while looking for parking spaces; encouraging pedestrian crossings midblock to make purchases from mobile vendors; placing equipment and furniture on public sidewalks, creating potential hazards and obstructing sidewalks used by pedestrians; and

WHEREAS, regulating the location and hours of operation of mobile vendors also benefits the health, safety and welfare of City residents, patrons and businesses because the operation of mobile vendors at inappropriate hours, or at inappropriate locations, creates traffic hazards, obstruction of adjacent sidewalks to pedestrians, and unwanted noise and littering at a particular location; and

WHEREAS, the regulation of mobile vendors on public property is also consistent with the City’s interest in the aesthetics of the community and promoting economic development on private property; and

WHEREAS, the intent of the ordinance is to provide clear and concise regulations regarding mobile vendors to ensure public safety and prevent traffic and health hazards; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: Los Altos Municipal Code, Chapter 8.20.070, entitled “Unlawful parking - peddlers and vendors” is hereby repealed in its entirety and a new Chapter 8.34 entitled “Mobile Vendors” is added to read as follows:

Sections:

- 8.34.010 - Purpose and Findings
- 8.34.020 - Definitions
- 8.34.030 - Permits Required
- 8.34.040 - Vendor’s Permit Required
- 8.34.050 - Operator’s Permit Required
- 8.34.060 - Special Event Permit
- 8.34.070 - Permits - Applications
- 8.34.080 - Permit - Investigations
- 8.34.090 - Issuance of Permit
- 8.34.100 - Denial of Permit
- 8.34.110 - Revocation of Permit
- 8.34.120 - Appeals
- 8.34.130 - Enforcement
- 8.34.140 - Refuse Receptacles and Removal
- 8.34.150 - Hours of Operation
- 8.34.160 - Insurance Provisions
- 8.34.170 - Noise Level
- 8.34.180 - Prohibited Conduct
- 8.34.190 - Applicability of Regulations to Existing Businesses
- 8.34.200 - Conducting as a Nuisance
- 8.34.210 - Penalty for Violation
- 8.34.220 - Exemptions

8.34.010 Purpose and Findings.

The city council of the City of Los Altos finds that mobile vendors pose traffic and public health hazards and impact the safety of residents within the City of Los Altos. The intent of this ordinance is to provide clear and concise regulations to insure public safety and prevent traffic and health hazards. This ordinance is also intended to preserve the peace, safety, and welfare of the residents of Los Altos.

8.34.020 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- A. “Chief of police” means the police chief or his/her designee.
- B. “City attorney” means the city attorney or his/her designee.
- C. “City clerk” means the city clerk of the city or his/her designee.
- D. “City Manager” means the city manager of the city or his/her designee.
- E. “Goods or merchandise” includes items and products of every kind and description, including all foods, produce, and beverage items.

- F. “Mobile vendor” means any person, as defined in this article who, on or along any street or sidewalk, or operating any vehicle or other mobile unit, sells or offers for sale, any goods, wares, merchandise, services, food or things of value from a vehicle or other mobile unit, and includes the person who engages in such vending operations as an agent or employee. Mobile vendors do not include outdoor retail sales of adjacent businesses.
- G. “Operator” means any and all person(s) who drive, operate, prepare foods and/or vend from a vehicle or other mobile unit.
- H. “Other mobile unit” means any trailer, cart, conveyance or structure not firmly fixed to a permanent foundation that does not specifically require a license to operate by the department of motors vehicles.
- I. “Permit” or “permittee” means and includes a permit and the holder thereof, under this chapter.
- J. “Person” as used in this chapter, means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or manager, lessee, agent, servant, officer or employee or any of them, except where the context clearly requires a different meaning.
- K. “Public property” means any real property, or interest therein, owned, leased, operated, or otherwise controlled by the city other than a street, alley, parkway or sidewalk.
- L. “Restocking” means any transfer of goods or merchandise to a mobile vending vehicle or other mobile unit from any other person or vehicle and includes, but is not limited to, loading and delivery.
- M. “Residential area” (all R1 and R3 Zoning Districts) means an area which provides for one-family, two-family, or other multi-family units.
- N. “Street” means a way or place of whatever nature, including highways and alleys, publicly maintained and open to use to public for purposes of vehicular travel.
- O. “Vehicle” means any vehicle or trailer as defined in the California Vehicle Code but shall not include any other mobile unit.
- P. “Vend” or “vending” as used in this chapter means soliciting, displaying, or offering produce, fruits, vegetables, prepared food, pre-packaged food or non-food sundries of any kind for sale or barter or exchange from a vehicle or other mobile unit on a public or private street, alley, highway or public place within the City and includes the movement or standing of a vending vehicle or other mobile unit for the purpose of searching for, obtaining or soliciting retail sales of produce, fruits, vegetables,

prepared food, pre-packaged food or non-food sundries, including but not limited to goods, wares, or merchandise.

Q. "Vendor" means any person who engages in the act of vending from a vehicle or other mobile unit, or who drives or otherwise operates any such vehicle for the purpose of vending therefrom.

8.34.030 Permits Required.

(a) No person or organization shall operate the business of vending goods or merchandise from a vehicle or other mobile unit pursuant to this section without first obtaining a permit or permits from the chief of police.

(b) Every mobile vendor shall obtain a city business license in accordance with Chapter 4.04 for each vehicle or other mobile unit from which vending is to be conducted.

(c) Every mobile vendor shall be in compliance with all applicable health requirements. All mobile vendors and all persons operating the vehicles or other mobile units shall comply with all local, county and state health regulations as enforced by the Santa Clara County Health Officer.

8.34.040 Vendor's Permit Required.

Any person desiring to obtain a vendor's permit to engage in the vending of goods or merchandise from a vehicle or other mobile unit, or driving of such vehicle, pursuant to this section shall make application to the chief of police. Such application shall be accompanied by a nonrefundable application fee in such amount as established by resolution of the city council. Any such permit shall be required to be renewed annually and a separate nonrefundable application fee paid yearly for such renewal application. Each applicant for a vendor's permit or applicant for an operator's permit on behalf of such proposed vendor shall furnish the following information and documentation as part of or in conjunction with such application:

(a) The present or proposed address from which the business is to be conducted, including the location of, restocking and overnight parking of the mobile vending vehicle or other mobile unit;

(b) The full and true name under which the business will be conducted;

(c) The full and true name and any other names used by the applicant;

(d) The present residence address and telephone number of the applicant;

(e) California driver's license number of the applicant;

(f) Acceptable written proof that the applicant is at least eighteen (18) years of age;

(g) The applicant's height, weight, color of eyes and hair, and date of birth;

(h) The business, occupation or employment history of the applicant for the three (3) year period immediately preceding the date of the application;

(i) The permit history of the applicant for the three (3) 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, or state, has ever had any similar license, permit or franchise revoked or suspended, and if so, the circumstances of such suspension or revocation;

(j) Written proof satisfactory to the city attorney or city manager that the applicant is insured under the policy of insurance required for such business pursuant to section 8.34.160 of this chapter;

(k) When any change occurs regarding the written information required in this chapter, prior to issuance of a permit, the applicant shall give written notification of such change to the chief of police within two (2) weeks after such change;

(l) If the applicant is an individual who intends to own, operate and drive his or her own vehicle, it is not necessary to pay a fee for the vendor's permit application separate from the fee paid for the operator's permit application.

8.34.050 Operator's Permit Required.

Any person desiring to obtain an operator's permit to conduct or otherwise operate the business of vending goods or merchandise from a vehicle or other mobile unit pursuant to this section shall make application to the chief of police. Such application shall be accompanied by a nonrefundable application fee in such amount as established by resolution of the city council. Any such permit shall be required to be renewed annually and a separate nonrefundable application fee paid yearly for such renewal application. Each applicant for an operator's permit shall furnish the following information and documentation as part of or in conjunction with such application:

(a) The present or proposed address from which the business is to be conducted;

(b) The full and true name under which the business will be conducted;

(c) The full and true name and any other names used by the applicant;

(d) The present residence and business addresses and telephone numbers of the applicant;

(e) A description of the goods or merchandise which the business will vend;

(f) 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; and

(g) A description of the logo, color scheme, insignia, and any other distinguishing characteristics of the applicant's vehicles.

8.34.060 Special Event Permit.

Vendors who wish to conduct business at a special event shall apply for and obtain a special event permit according to the rules and procedures described in Chapter 9.25 of the Los Altos Municipal Code. In addition to a special event permit, a vendor must have an operator's permit and a business license to conduct business at a special event.

8.34.070 Permits—Applications.

A written application for the permit required by sections 8.34.040 and 8.34.050 shall be made by affidavit under penalty of perjury and filed with the chief of police. These applications may require such further information as may be required by the chief of police.

8.34.080 Permits—Investigations.

When a completed permit application is filed and the payment of the fee is made, the chief of police shall begin an applicant investigation. The chief of police has the authority to obtain criminal history information for each person operating or assisting in the operation of a vending permit for the purposes of his or her investigation. If he or she finds that such operators or persons assisting in vending operations have been convicted within the past five years of any state law or municipal ordinance while in the course of conducting vending operations from a vehicle or other mobile unit or crimes involving minors, the chief of police may deny the issuance of the permit.

8.34.090 Issuance of Permit.

Within thirty (30) days after receiving the completed application, the chief of police shall grant the applicant vendor's permit or operator's permit only if he or she finds that all of the following requirements have been met:

- (a) The required fees have been paid;
- (b) The application conforms in all respects to the provisions of this chapter;
- (c) The applicant has not made a material misrepresentation of fact in the application;
- (d) The applicant has not had a similar permit denied or revoked by the city within a period of one year prior to the date of such application; and
- (e) The applicant does not have any outstanding debt owing to the city.

Any permit shall be valid for one year from date of issuance.

8.34.100 Denial of Permit.

If the chief of police does not find that all of the requirements set forth in section 8.34.080 and 8.34.090 as applicable have been met, he or she shall deny the application for the vendor's or operator's permit. In the event the application for the permit is denied, written notice of such denial shall be given to the applicant specifying the ground or grounds of such denial. Notice of denial of the application for the permit shall be deemed to have been served on the date it is personally delivered to the applicant or when deposited in the United

States mail with prepaid postage, addressed to the applicant at the address set forth in the permit application.

If the chief of police denies an application for a vendor's or operator's permit, the applicant may appeal such denial to the city manager by filing a written notice of appeal with the city clerk within ten (10) days following the date of service of the decision and payment of the appeal fee prescribed by resolution of the city council. The date of filing of said notice of appeal shall be the date said notice and appeal fees are received by the city clerk.

No person or entity whose permit is finally denied shall be eligible to apply for a new permit for a period of one year following such final denial.

8.34.110 Revocation of Permit.

Any vendor's or operator's permit may be revoked by the chief of police for good cause shown, including but not necessarily limited to any of the following reasons:

- (a) Falsification of any information supplied by the permittee upon which issuance of the permit was based;
- (b) Failure of the permittee, or any employees or subcontractors of the permittee, to comply with the regulations set forth in this chapter;
- (c) Conviction of a violation, or plea of guilty or *nolo contendere*, 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 a vehicle or other mobile unit, or crimes involving minors, pursuant to the permit;
- (d) Conviction of a violation, or a plea of guilty or *nolo contendere*, by the permittee of any applicable provision or requirement of this section;
- (e) No such revocation shall become effective until expiration of the appeal period. Notification to 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. Service shall be deemed made on the permit holder on the date personally delivered or on the date of mailing. A permit holder may appeal such revocation by filing a written notice of appeal with the city manager within ten (10) days following the date of service of such decision and payment of the appeal fee, as prescribed by resolution of the city council. The date of filing of said notice of appeal shall be the date said notice and appeal fee are received by the city manager. If a timely appeal is filed, the revocation shall be stayed pending the decision of the city manager. Otherwise the suspension or revocation shall become effective immediately upon expiration of said appeal period.
- (f) No person or entity whose permit is revoked shall be eligible to apply for a new permit for a period of one year following such revocation.

8.34.120 Appeals.

Upon receipt of a timely appeal, the city manager shall hear such appeal within thirty (30) days following the date of such appeal and shall give the appellant no fewer than five (5) days advance notice of the date of such hearing. The decision of the city manager shall be

based upon the same criteria as set forth in the sections 8.34.080, 8.34.090 and 8.34.110. The appellant shall be notified of the decision of the city manager by mailed, written notice. The decision of the city manager shall be final. No revocation of a permit pursuant to this section shall be deemed effective during the pendency of a timely filed appeal until the date of mailing of the city manager's decision; provided, however, no permit holder shall operate during any period of time in which the insurance coverage required by this section is not in full force and effect.

8.34.130 Enforcement.

The chief of police has the authority to enforce the provisions of this ordinance.

8.34.140 Refuse Receptacles and Removal.

- (a) All mobile vendors shall be equipped with refuse receptacles large enough to contain all refuse generated by its operation.
- (b) The mobile vendor shall pick up all refuse generated by such operation within one hundred foot (100') radius of the vehicle before the vehicle is moved. All refuse shall be disposed of at an approved solid waste facility.

8.34.150 Days and Hours of Operation.

- (a) No mobile vendor shall remain on public property during non-operating hours. Overnight parking of a mobile vendor vehicle or other mobile unit on a public street or alley is prohibited.
- (b) No vending shall be permitted by any operator or conducted by a vendor except between the hours of 10:00 a.m. and 2:00 p.m., Monday through Saturday.

8.34.160 Insurance Provisions.

Vendors shall submit and maintain a certificate of commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) with a signed endorsement to the policy satisfactory to the City. The certificate of insurance shall name the city, council, boards, commissions, officers, employees, agents, and volunteers as additional insured.

8.34.170 Noise Level.

- (a) Any use of amplified sound-making devices, including vehicle horns, to advertise, draw attention to, or announce the presence of any mobile vendor shall comply with the limitations and provisions set forth in the Los Altos Municipal Code. No amplified sound making devices shall be used for such purposes upon any public street immediately contiguous to any property zoned for residential use within the city.
- (b) Non-amplified sound making devices shall not be used while the mobile vendor is stopped, parked, or otherwise in a stationary position, on any public street in an area zoned for residential use within the City; and such sounds shall not be audible for a distance of more than two hundred feet (200') in an area zoned for residential use within the city.

8.34.180 Prohibited Conduct.

- (a) No person shall vend from a vehicle or other mobile unit, which are stopped, parked or standing on any public street, alley or highway in any of the following circumstances:
- (1) Within three hundred feet (300') of any other vehicle which is engaged in the operation of vending;
 - (2) Within one hundred feet (100') of an intersection (including public alleys);
 - (3) When the posted speed limit on the public street, alley, or highway is thirty-five (35) miles per hour or greater.
 - (4) When the vehicle or other mobile unit is parked in violation of any other provision of the Los Altos Municipal Code or the California Vehicle Code.
 - (5) When the vehicle is duly registered and licensed by the State of California with a weight exceeding six thousand (6,000) pounds.
 - (6) When any part of the mobile vendor's vehicle is open to prospective customers other than on the side of the vehicle next to the right side of the street or highway;
 - (7) When the mobile vendor's vehicle is not stopped, parked, or standing on the right side of the street or highway;
 - (8) When the prospective customer is standing or sitting in another vehicle; or,
 - (9) When the prospective customer is located in that portion of the street, alley or highway which is open to vehicular traffic, or is obstructing pedestrian traffic;
 - (11) When the mobile vendor is within any parkway, alley, sidewalk or within a no parking area as defined by Los Altos Municipal Code Section 8.20.010 *et. seq.* or other public property, including city parking plazas or parking lots;
 - (12) When the mobile vendor is within fifteen feet (15) from any driveway.
- (b) Restocking of a mobile vendor's vehicle is prohibited on a public street or alley.
- (c) No mobile vendor's vehicle shall attach to or receive any utilities from private or public property.
- (d) No additional exterior lighting other than that required by the California Vehicle Code may be installed or operated on a mobile vendor's vehicle.

8.34.190 Applicability of Regulations to Existing Businesses.

The provisions of this article apply to all persons and businesses described herein regardless of whether the described activities were established before or after the effective date of the ordinance enacting this article into law. All such persons and businesses shall have thirty (30) days from said effective date to file a completed application for a vendor's or operator's permit with the city.

8.34.200 Conducting as a Nuisance.

Any mobile vendor operated contrary to the provisions of this chapter may be deemed to be unlawful and are hereby declared a public nuisance. The city attorney may commence any civil action or proceeding, for the abatement, removal or enjoyment thereof, in the manner provided by law, and may apply to such court as may have jurisdiction to grant such relief as

will abate or remove such establishment and restrain and enjoin any person from operating as a mobile vendor contrary to the provisions of this chapter.

8.34.210 Penalty for Violation.

Every violation of the provisions of this article shall be deemed to be a misdemeanor. Each day any violation of any said provision of this article shall constitute a separate offense.

8.34.220 Exemptions.

The requirements of this section shall not apply to:

- (a) Any person delivering any goods or merchandise by vehicle where such goods or merchandise have been ordered in advance for such delivery from any business located at a permanent location and which goods or merchandise is being delivered from such location to the customer by vehicle, regardless of the point of sale thereof.
- (b) Any person engaged in the vending of goods or merchandise on public property where such persons have been authorized by the city to engage in such activity by a permit, special event permit, lease, real property license, agreement, or other entitlements issued by the city for such purpose.

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____, 2014 and was thereafter, at a regular meeting held on _____, 2014 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Megan Satterlee, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK