

ORDINANCE NO. 638

AN ORDINANCE OF THE CITY COUNCIL, OF THE CITY OF ADELANTO, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, ESTABLISHING CHAPTER 5.84 (FOOD TRUCKS) TO TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE ADELANTO MUNICIPAL CODE REGULATING FOOD TRUCKS

WHEREAS, the City of Adelanto is a municipal corporation, duly organized under the constitution and laws of the State of California;

WHEREAS, pursuant to its police power, the City may enact and enforce laws within its boundaries which promote the public health, morals, safety, or general welfare of the community, and are not in conflict with general laws;

WHEREAS, the California Vehicle Code Section 22455 allows municipalities to regulate mobile food vending in order to protect public safety and Article XI, Section 7 of the California Constitution extends to municipalities the police power authority to regulate food truck vending in furtherance of public health and welfare; and

WHEREAS, food truck vending and catering trucks create the potential for safety hazards, such as but not limited to, encouraging pedestrians to cross mid-block to purchase food; and

WHEREAS, food trucks create the potential for safety hazards, such as blocking sight distances at intersections and crosswalks, encouraging pedestrians and children to cross streets mid-block to reach a vending vehicle, and causing additional conflicts between drivers and pedestrians; and

WHEREAS, food trucks and other mobile food facilities create the potential for public health hazards, such as the presence and creation of litter, public urination by employees not having access to a bathroom located sufficiently close by, and employees and food preparers being unable to properly wash their hands should a bathroom not be located sufficiently close by; and

WHEREAS, food truck operators who fail to park their vehicles correctly while doing business attract prospective buyers onto public roadways, creating a further traffic and public safety hazard; and

WHEREAS, the City has an important and substantial public interest in providing regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ADELANTO DOES ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The recitals set forth above are true and correct and are hereby incorporated by this reference as if set forth in full herein.

Section 2. Chapter 5.84 of Title 5, is hereby added to the Adelanto Municipal Code to read as follows:

Chapter 5.84 Food Trucks

Sections:

5.84.010 Purpose

5.84.020 Definitions

5.84.030 Permit Required; Fees

5.84.040 Regulation of Food Trucks

5.84.050 Food Trucks on Public Right-of-Way

5.84.060 Exceptions

5.84.070 Violations and Penalties

5.84.010 Purpose.

It is the purpose and intent of Chapter 5.84 to allow mobile food vending, aka “food trucks” or “food truck vending” within the City that complies with City, county, and state laws and regulations. It is a further purpose and intent of this Chapter 5.84 to regulate food truck vending in order to protect the health, safety and welfare of the residents of Adelanto in a manner consistent with state and local law. In order to meet these objectives, business licenses and food truck permits shall be required to vend in the City. The provisions of this Chapter 5.84 are in addition to any permits, licenses and approvals that may be required to conduct business in the City, and in addition to any permits, licenses and approvals required under state, county, or other law.

5.84.020 Definitions.

The following words and phrases, whenever used in this Chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

- A. “Food or food products” means any type of edible substance or beverage.
- B. “Food truck operator” means a person that operates or assists in the operation of a food truck.
- C. “Food Truck” means any motorized device or vehicle by which any person or property may be propelled or moved upon a highway, or which may be towed by a motorized device or vehicle, from which food or food products are prepared, sold, offered for sale, displayed, bartered, exchanged or otherwise given. This definition shall exclude sidewalk vendors, roaming sidewalk vendors, and stationary sidewalk vendors as defined in Section 5.82.020.
- D. “Food Truck Permit” shall mean a business license issued pursuant to this Chapter for the purpose of operating a food truck in the City.

E. “Public right-of-way” means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity, and the area along and upon any public road or highway.

F. “Vend or vending” means to sell, offer for sale, display, barter, exchange, or otherwise give food or food products from a food truck.

G. “Vendor” means a person who vends, including an employee or agent of a vendor.

5.84.030 Permit Required; Fees.

A. It is unlawful for any person to engage in or employ any person to engage in the business of operating a food truck vehicle without first obtaining and maintaining a food truck permit pursuant to this Chapter 5.84 to conduct such business.

B. Fees for such permits shall be in an amount determined by resolution.

C. To apply for a food truck permit, an applicant must provide:

1. A signed and completed application form containing:
 - a. The applicant’s name, mailing address, and telephone number;
 - b. The applicant’s business name, including the name identifying and posted on the subject food truck;
 - c. Ownership type (e.g., sole proprietorship, or corporation, etc.);
 - d. A description of the type of food or beverages to be sold and hours of operation;
 - e. A description and photograph (including colors and any signs) of the food truck(s) to be used, including vehicle identification number(s) and license plate number(s);
 - f. A copy of a valid health permit issued by the County of San Bernardino;
 - g. Copies of all other applicable required licenses, certificates, and permits, including, but not limited to, Public Health Operating Permit, Operators Food Handler’s Certificate, Food Vehicle Certificate Sticker, Seller’s Permit, and proof of liability insurance;
 - h. Certification that the information in the application is true; and
 - i. Agreement to comply with all provisions of this Chapter, all applicable provisions of this code, and all applicable federal, state and local laws, rules, regulations, ordinances, etc.
2. Payment for permit fees.

D. Food truck permits must be renewed yearly and are not transferrable.

E. Upon applying for a food truck permit and upon applying for renewal of a food truck permit, food truck operators shall provide a list of sites on which the food truck vehicle has been, or will be, stationed through the previous and upcoming year, as well as owner authorizations that correspond to those properties.

F. The City Manager or their designee may revoke or suspend any food truck permit issued pursuant to this chapter for any of the following reasons:

1. Revocation, suspension, or nonrenewal of the required permit from the San Bernardino County Department of Public Health Division of Environmental Health Services;
2. Upon the second violation of the same regulation set forth in this Chapter 5.84 in a single year; or
3. Upon the third violation of the regulations set forth in this Chapter 5.84 in a single year.
4. Upon failure to pay administrative fines pursuant to Section 5.84.070.

G. A food truck operator shall also have a valid business license from the City.

5.84.040 Regulation of Food Trucks.

A. Food truck operators shall comply with all applicable federal, state, and local laws.

B. Food trucks shall have a valid permit from the San Bernardino County Department of Public Health Division of Environmental Health Services. The revocation of a County permit shall be communicated to the City in writing and shall result in the automatic suspension of the food truck permit issued by the City. A copy of said permit shall be kept in the food truck and shall be visible at all times.

C. Food trucks shall display in conspicuous view their City-issued food truck permit or decal and business license on the customer-facing portion of their vehicle when operating within the City.

D. Food trucks shall maintain a clean selling area and haul away all trash generated by their operation. Every food truck shall provide a refuse container in the immediate vicinity of the food truck. Prior to leaving the location, the food truck operator shall pick up, remove and dispose of all trash generated by the food truck's operation located within a fifty (50) foot radius of the food truck's location. Trash generated by food truck operations shall not be disposed of in public trash receptacles.

- E. No discharging of any liquid waste is permitted except at a County-approved commissary.
- F. Food trucks shall not use any signs in connection with the sale, display or offering for sale of items or food, except for those signs affixed to or painted on the food truck vehicle, and menus or promotional signs situated in the immediate vicinity of the food truck.
- G. The use of flashing lights, strobe lights, and flood lights is prohibited.
- H. Food trucks shall not operate within fifty (50) feet of a fire hydrant or within twenty-five (25) feet of a bus stop.
- I. Vending must be contained to the food truck. Food truck operators may not augment operations by setting up accessories, equipment, tables, chairs, or stools near the vehicle.
- J. Food trucks shall be limited to operating in residential areas from 8:00 a.m. through 8:00 p.m. on days Sunday through Thursday, and from 8:00 a.m. through 9:00 p.m. on days Friday and Saturday. In all other areas of the City, food trucks shall be limited to operating between the hours of 7:00 a.m. and 11:00 p.m. every day.
- K. Food truck operators shall have with them all of the following documents while vending within the City:
1. Proof of liability insurance;
 2. Food handler's certificate;
 3. Seller's permit;
 4. City-issued business license;
 5. City-issued food truck permit or decal; and
 6. Operating permit issued by the San Bernardino County Department of Public Health Division of Environmental Health Services.
- L. A food truck permit does not provide an exclusive right to operate within any specific portion of public property or public right-of-way. No person shall attempt to reserve any portion of any public property or public right-of-way exclusively for the operation of their food truck.
- M. Food truck operators shall not leave or maintain a food truck or any accessories, equipment, or objects used for food truck vending purposes on public property or in any portion of the public right of-way overnight. Any equipment or objects left overnight on public property or in any portion of the public right-of-way will be considered discarded and may be disposed of by the City.
- N. Food trucks shall be stored overnight at or within a commissary or other location approved by the San Bernardino County Department of Public Health.

O. Food truck operators shall not engage in vending in such a manner as to cause onlookers, vehicle drivers, customers, or others to obstruct the free flow, access, or view of pedestrian or vehicular traffic.

P. No food truck shall operate in such a way so as to reduce or impair motorists' view of any cross street, crosswalk, driveway or any other similar location where traffic, be it vehicular, pedestrian or bicycle, can be expected to enter the street, and in any way contributes to a traffic hazard or unsafe driving conditions.

Q. Food truck vending operations shall at all times comply with the provisions of the City's Noise Control Ordinance, Chapter 9.110 of title 9 of the Adelanto Municipal Code.

R. The food truck operator shall maintain and supply to the city, copies of policies of commercial general liability and automobile liability, in an amount of no less than \$1,000,000.00 per occurrence, naming the City as an additional insured.

S. Food truck operators shall be prohibited from vending food or food products at public parks where the City has entered into an agreement for the exclusive sale of food or food products with a particular concessionaire or vendor.

T. Food trucks shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility to ensure that restroom facilities are available to employees whenever the food truck is stopped to conduct business for more than a one-hour period. Food truck operators must provide written evidence of permission from an adjoining property or business owner to use their restroom facilities.

U. Food truck operators shall obtain property owner authorization when temporarily or permanently vending on private or on City-owned property, and shall carry evidence of written property owner authorization at all times. If operating in state right-of-way, the mobile vendor shall provide evidence of the state's authorization.

V. This section is not intended to be enforced against sidewalk vendors, roaming sidewalk vendors, and stationary sidewalk vendors as defined in Section 5.82.020.

5.84.050 Food Trucks on Public Right-of-Way.

Food truck operators may locate food trucks in the public right-of-way as long as the food truck operator adheres to all other provisions of this Chapter and the following standards and conditions:

- A. The food truck operations shall not obstruct pedestrian or vehicular traffic.
- B. If parked alongside a roadway, food vending shall be limited solely to that side of the food truck facing away from vehicular traffic and shall be prohibited on the traffic-facing side of the food truck.
- C. A food truck operator shall not distribute any item from the food truck in a manner that causes any person to stand, sit, or otherwise occupy any portion of the street.
- D. A food truck operator shall not encroach onto a public sidewalk with any part of its food truck or any other equipment or furniture related to the operation of its business.
- E. No food truck shall be parked, stopped or left standing in any manner that blocks or impedes vehicular access to any driveway or restricts the free movement of emergency vehicles.
- F. The food truck is in full compliance with all parking regulations and Vehicle Code provisions that apply to the location at which it is parked.

5.84.060 Exceptions.

- A. No food truck permit shall be required when food truck vending is associated with the operation of a City-issued temporary special event permit, subject to the conditions thereof.
- B. No food truck permit shall be required when food truck operations are solely limited to private event catering services and when all of the following provisions are met:
 - 1. The food truck is situated entirely on private property;
 - 2. Service is limited to the guests of the catered event only; and
 - 3. No payment transactions shall occur for individual orders taken by the food truck operator.

5.84.070 Violations and Penalties.

Any violation of the provisions of this Chapter, at the discretion of the City taking into account the nature of an alleged violation and any previously issued warnings, is punishable as an infraction or misdemeanor, and any violation of the provisions of this Chapter is subject to an administrative citation, at the discretion of the City, punishable by an administrative fine as follows:

- 1. \$500.00 for the first violation within a calendar year.
- 2. \$750.00 for the second violation within a calendar year.

3. \$1,000.00 for the third violation within a calendar year.

Failure to pay an administrative fine within thirty (30) calendar days may result in revocation or suspension of a food truck permit and/or business license pursuant to Section 5.84.030(E)(4).


Section 3. The City Council of the City of Adelanto finds that the adoption of this Ordinance is not a “project” for the purposes of CEQA Guidelines Section 15378, as the amendments provide for a regulatory permitting and related administrative procedures that will not result in direct or indirect physical changes in the environment. Additionally, even if this Ordinance is a “project” for the purposes of CEQA, it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. Therefore, this matter is not subject to CEQA.

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after its final passage.

Section 5. Severability. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 6. Certification/Summary. Following the City Clerk’s certification that the citizens of Adelanto have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book of original ordinances of said City; and shall cause the same, or a summary thereof, to be published as required by law.

PASSED, APPROVED AND ADOPTED this 12th day of April, 2023.



Brenda Lopez, City Clerk



Gabriel Reyes, Mayor

APPROVED AS TO FORM:



Kristopher Daams

Marc Tran, City Attorney

I, Brenda Lopez, City Clerk of the City of Adelanto, California, do hereby certify that the foregoing Ordinance No. 638 was duly introduced for the first reading on the 22nd day of March, 2023 and regularly adopted at a regular meeting of the City Council of the City of Adelanto on this 12th day of April, 2023, by the following vote, to-wit:

AYES: Council Members Jeannette, Meza, Uptergrove, Mayor Pro Tem Ramos and Mayor Reyes

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of the City of Adelanto on this 12th day of April, 2023.



Brenda Lopez, City Clerk

SEAL