

ARTICLE 13

FOOD SHARING EVENT ORDINANCE

SEC. 4-13.00 FINDINGS AND PURPOSE. The City Council finds as follows:

- (1) Regularly scheduled outdoor food sharing events take place on city-owned property several times a week. A number of the people served are homeless, but many are also people with very limited economic means who are housed and who are able to avoid homelessness in part by accessing food from these events.
- (2) Individuals and organizations currently engage in the distribution of food to those in need without having to obtain permits or operate under regulations that control the manner in which food is prepared, stored, transported, or served.
- (3) City departments have been repeatedly called to address public nuisance and other illegal behavior, clean-up human waste, litter, trash and other debris left over from the food sharing events.
- (4) These activities have resulted in a significant deterioration of the condition of public property and the overall quality of life in Hayward.
- (5) The parks in Downtown Hayward, specifically Portuguese Park and Newman Park are small urban pocket parks with limited space to accommodate these types of events and also allow for normal use by the public.
- (6) The use of Library Park for food sharing events is inconsistent with the operating purpose of the library.
- (7) The use of Giuliani Plaza for food sharing events is inconsistent with the interest in providing a children's play space at that location.
- (8) The purpose of this article is to: protect public health, safety and welfare by requiring all persons or organizations that sponsor, promote or engage in food sharing events on City-owned property to obtain a permit issued by the City prior to engaging in such activity, and requiring compliance with applicable Alameda County regulations regarding food preparation and distribution; to accommodate competing interests and uses for the limited park space when these activities take place in city parks; and to ensure that events taking place on city-owned property are consistent with the intended primary uses of the property.

SEC. 4-13.10 DEFINITIONS. For the purpose of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their content that a different meaning is intended:

- a. “City-owned property” includes municipal parking lots, municipal parking structures, public sidewalks, public rights-of-way and City parks.
- b. “City Park” means Portuguese Park, Giuliani Plaza, Newman Park, Library Park and City Hall Plaza and any other park or open space within City limits that is not under the management of the Hayward Area Recreation and Park District.
 - i. City Hall Plaza includes the pathways, green space and rights-of-way located on the property bounded by “B” Street to the North, Watkins St. to the East, Montgomery Ave. to the West and the City Walk Condominiums to the South.
- c. “Food sharing event” means a non-social gathering that is planned, organized, promoted or advertised where food is distributed or offered for charitable purposes at no cost, or for a nominal charge, to any member of the public.

SEC. 4-13.20 PERMIT REQUIRED. It is unlawful for any individual or organization to sponsor, promote or engage in a food sharing event on City-owned property in violation of the provisions of this Article. Any public officer identified in Section 1-3.06 of this Code may issue an administrative citation for a violation of this Article. Public officers, in order to protect public health, safety and welfare, are authorized to order immediate discontinuation of a food sharing event if the sponsor cannot provide proof of compliance with Alameda County regulations concerning food preparation and distribution.

SEC. 4-13.25 ADMINISTRATIVE PENALTIES. Administrative citation fines for violations of this Article shall be in the amounts set forth in the Master Fee Schedule as adopted each year by the City Council.

SEC. 4-13.30 PERMIT APPLICATION PROCEDURE. Any person or organization sponsoring, promoting or engaging in a food sharing event on City-owned property must obtain a permit issued by the City Manager’s Office and comply with the following requirements:

- a. Submit a permit application on a form provided by the City;
- b. Submit a permit fee in an amount established by the City Council.;
- c. Provide proof of compliance with all applicable Alameda County regulations relating to food preparation and distribution;
- d. Provide proof of General Liability insurance with coverage limits up to \$1,000,000 per occurrence with the City of Hayward named as an additional insured;

- e. Agree to indemnify, hold harmless and defend the City from claims arising from negligent acts, omissions or reckless or willful conduct of the Permittee or Permittee's employees, agents or volunteers related to Permittee's activities pursuant to the permit;
- f. Provide a refundable deposit in the amount of \$500 for maintenance and cleaning costs and agree to reimburse the City for maintenance and cleaning costs in excess of the deposit.

SEC. 4-13.35 EVENT REGULATIONS. A Permittee must comply with the following regulations when conducting a food sharing event:

- a. Notify the City Manager's Office at least 72 hours prior to an event, providing the location, date and time of the event.
- b. Permittees shall be prepared to show proof of a valid permit issued pursuant to this Article upon request by any police officer or code enforcement officer of the City of Hayward.
- c. Permittees shall be prepared to show proof of compliance with all applicable Alameda County regulations relating to food preparation, handling and distribution upon request by any police officer or code enforcement officer of the City of Hayward.
- d. Permittees shall not conduct an event in a manner that prevents normal use of public streets, sidewalks or rights-of-way.
- e. Permittees shall not conduct food sharing events in any municipal parking lot or parking structure, in Giuliani Plaza, in Library Park.
- f. Food sharing events shall not be conducted between the hours of sunset and sunrise of the following day.
- g. Permittees shall hold no more than one (1) event per month, regardless of location. No location will host more than one (1) event per month.
- h. No food sharing event shall be permitted to last more than three (3) hours in duration.

SEC. 4-13.40 BASIS FOR DENYING PERMIT. The City Manager or City Manager's Designee shall issue a permit pursuant to this Article unless:

- a. The applicant fails or refuses to pay the required permit fee.
- b. The applicant fails or refuses to sign an agreement indemnifying the City for any claims that may arise from the Permittee's activities in relation to the permit.

- c. The applicant fails or refuses to obtain appropriate insurance coverage for the event.
- d. The applicant fails to provide proof of compliance with Alameda County regulations applicable to food preparation, storage, transportation, and distribution.
- e. The applicant fails or refuses to provide the required deposit for maintenance and cleaning costs.

SEC. 4-13.45 REVOCATION OF PERMITS. Any permit granted pursuant to the provisions of this Article may be revoked by the City Manager or the City Manager's Designee for any violation of this Article, any applicable provision of the Hayward Municipal Code or laws and regulations of the County of Alameda or State of California.

Such revocation shall be made only after written notice of the City's decision to revoke has been provided to the permit holder and upon a hearing granted to the holder of the permit so revoked as specified in this Article. A permit holder may not sponsor, promote or engage in a food sharing event once written notice of the permit revocation has been issued.

SEC. 4-13.50 ADMINISTRATIVE APPEALS. An applicant or permit holder may appeal the denial of a permit application, revocation of a permit or issuance of an administrative citation by completing a Request for Hearing form and returning it to the City within fifteen (15) days from the date of being notified of the denial of the application, revocation of the permit or issuance of the administrative citation. The applicant or permit holder shall be entitled to a hearing pursuant to the provisions of this Article.

SEC. 4-13.55 ADMINISTRATIVE APPEAL HEARING PROCEDURE.

- a. Any hearing pursuant to this Article shall be undertaken or held by a person designated by the City Manager. The person to whom a matter is assigned shall be deemed a "Hearing Officer". The Hearing Officer shall not be a Hayward City employee. The employment, performance evaluation, compensation, and benefits of the Hearing Officer, if any, shall not be directly or indirectly conditioned upon the amount of fines upheld by the Hearing Officer or the outcome of any appeal.
- b. A hearing before the Hearing Officer shall be set for a date that is not less than fifteen(15) and not more than thirty (30) days from the date that the request for hearing is filed in accordance with the provisions of this Article. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.
- c. In conducting such hearings the Hearing Officer shall not be bound in the conduct thereof by the common law or statutory rules of evidence and procedure, but inquiry shall be made in the matter, through oral testimony and records, which is best calculated to ascertain the substantial rights of the public and parties. The Hearing Officer shall ensure a record of the hearing is made.

- d. The Hearing Officer may continue the hearing and request additional information from the parties prior to issuing a written decision.
- e. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision containing findings of fact and an evaluation of the sufficiency of evidence to support the denial of an application, revocation of a permit or finding of a violation. The written decision shall be prepared and mailed to the appellant within ten (10) days of the conclusion of the hearing and shall list in the decision the reasons for that decision. The decision of the Hearing Officer shall be final.
- f. If the Hearing Officer determines that an administrative citation should be upheld, then the fine amount shall be paid within five working days to the City.
- g. If the Hearing Officer determines that a denial of an application for a permit should be reversed, the Hearing Officer's written decision shall include direction to City staff to issue a permit consistent with the Hearing Officer's findings.
- h. If the Hearing Officer determines that a revocation of a permit should be reversed, the Hearing Officer's written decision shall include direction to City staff to reinstate the permit consistent with the Hearing Officer's findings.

SEC. 4-13.60 EXEMPTIONS. The provisions of this Article shall not apply to farmer's markets or events/activities where commercial food distribution takes place.

