

(O-82-244)

ORDINANCE NUMBER O- 15803 (New Series)

Adopted on AUG 16 1982, ~~1982~~

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 42.0101.2 RELATING TO PERISHABLE FOOD, AND BY ADDING SECTIONS 42.0160 THROUGH 42.0168 RELATING TO MOBILE FOOD UNITS.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter IV, Article 2, Division 1, of the San Diego Municipal Code be and it is hereby amended by amending Section 42.0101.2 and adding Sections 42.0160 through 42.0168 to read as follows:

SEC. 42.0101.2 PERISHABLE FOOD - PROHIBITION OF ITINERANT SALE

Except as otherwise expressly provided in this Chapter, no person shall sell, offer for sale or distribute perishable food from door to door or from place to place by any of the following means:

(a) by hand-carrying such food on his person or in a container;

(b) by transporting such food by means of handcart, pushcart or bicycle cart;

(c) by carrying or transporting such food in any other type of vehicle propelled by muscular power either human or animal.

SEC. 42.0160 MOBILE FOOD UNITS - DEFINITIONS

A. MOBILE FOOD UNIT means any food establishment

which is readily movable, including, but not limited to, pushcarts and stands, and on or in which food is prepared, stored, displayed, served, distributed, transported, offered for sale or sold at retail or given away without charge. Mobile food unit shall not include food vending vehicles, regulated by Section 42.0130 of this Code; mobile food preparation units, regulated by Title 17, Chapter 5, Subchapter 2, Group 1, Article 10 of the California Administrative Code; or commercial coaches regulated by Title 25, Chapter 3, Subchapter 2, Articles 3 and 3.5 of the California Administrative Code.

B. NON-POTENTIALLY HAZARDOUS FOOD means food which is not potentially hazardous as defined in Section 28810 of the Health and Safety Code. It includes popcorn, peanuts, pretzels, or other foods approved by the San Diego Department of Health Services.

C. POTENTIALLY HAZARDOUS FOOD means any food which is capable of supporting the growth of infectious or toxicogenic microorganisms when held at temperatures above 45 degrees fahrenheit.

SEC. 42.0161 MOBILE FOOD UNITS - OPERATING REQUIREMENTS

A. Mobile food unit operations are limited to one or more of the following:

- (1) The serving of non-potentially hazardous or commissary wrapped food.
- (2) The preparation and serving of hot dogs.
- (3) The serving of beverages dispensed from a closed carbonation system.

(4) The serving of food or beverages in hermetically sealed cans or bottles.

(5) The serving of packaged ice cream.

B. During operation, no food shall be stored, displayed, or served from any place other than on the mobile food unit. All food supplies, and eating, drinking and other utensils shall be kept on the mobile food unit. No auxiliary tables, utility carts or any other items not contained in or on the mobile food unit shall be used in conjunction with the dispensing of food.

C. Spare tires, related automotive equipment, tools relating to the mechanical operation of the mobile food preparation unit, or other items extraneous to the vending of food, shall not be stored in the food preparation or food storage areas.

D. During transportation and storage mobile food units shall be protected from contamination.

E. Food condiments shall at all times be protected from contamination and, where available for self-service, shall be prepackaged.

F. Potentially hazardous foods shall be maintained at temperatures at or below 45 degrees Fahrenheit, or at or above 140 degrees Fahrenheit.

G. Operators shall wear clean outer garments and keep themselves clean while handling food, utensils or food equipment. Proper hair restraint shall be worn by food handlers. No food unit operator shall use tobacco in any form while operating food unit.

H. Utensils shall be used for dispensing food and shall be kept clean and in good repair.

I. Only single service utensils or containers may be provided for customer use and such articles shall be stored in their original, enclosed packages and kept free of contamination. They shall be kept in an enclosed dispenser for customer use. Straws shall be wrapped or dispensed from a sanitary dispenser.

J. All food shall be displayed, stored, dispensed and handled so as to minimize manual contact.

K. All mobile food unit surfaces and equipment shall be kept clean and in good repair.

L. Mobile food units shall operate from a commissary as defined in Section 28536, California Health and Safety Code, and shall be stored at the commissary when not in use. Commissaries shall have ample space to store and clean all mobile food units operated from them.

M. Mobile food units shall be thoroughly cleaned at the commissary after each day's use and shall be clean before each day of operation. Food products which are left after closing each day shall be properly stored and kept at proper temperatures.

N. The waste tank shall be emptied only at the commissary or at a location approved by the Health Officer.

O. Supplies shall be loaded on the mobile food units only at the commissary or from a service vehicle at the vending location. Any service vehicle providing additional food to a mobile food unit must itself have a valid mobile

food unit permit and shall operate from a commissary as defined by Section 28536, California Health and Safety Code.

P. Persons who dispense food from a mobile food unit must provide or have available in a conspicuous place in the immediate vicinity of the unit a litter receptacle which is clearly marked with a sign requesting its use by patrons of the permittee or operator.

Q. Each person operating a mobile food unit shall pick up, remove and dispose of all trash, refuse or litter consisting of materials at one time dispensed from the food unit, and any residue deposited on the street from the operation thereof, and shall otherwise maintain in a clean and debris-free condition the entire area within a 25-foot radius of the location where vending is occurring.

SEC. 42.0162 MOBILE FOOD UNITS - SANITATION

A. All ingredients used in the preparation of foods or beverages, and all foods or beverages offered for sale, sold, or served from a mobile food unit shall meet each of the following criteria:

(1) Be manufactured, produced, prepared, compounded, packed, stored, transported, kept for sale, and served so as to be pure and free from adulteration, contamination, or spoilage.

(2) Be otherwise fit for human consumption.

B. No food, beverage or ingredient prepared or stored in a private home shall be offered for sale, sold, or given away from a mobile food unit.

SEC. 42.0163 MOBILE FOOD UNITS - CONSTRUCTION AND
EQUIPMENT REQUIREMENTS

A. Equipment, including the exterior of the mobile food unit and the interior of cabinets or storage compartments, shall be constructed so as to have smooth, easily accessible, and easily cleanable surfaces free from channels, crevices, flanges, ledges, sharp or jagged edges, or other cleaning obstructions. Unfinished wooden surfaces are not permitted. Food contact surfaces shall be constructed of metal, high pressure laminated plastics, or hardwood. These surfaces shall be free of cracks, rust, and other obstructions which would interfere with proper cleaning. All equipment shall be made of nontoxic materials.

B. All equipment shall be so installed as to be easily cleaned, prevent vermin harborage and provide adequate access for service and maintenance. Equipment shall be spaced apart for easy cleaning or shall be sealed together. To provide for sanitary maintenance when equipment is not sealed together there shall be at least three (3) inches of unobstructed space between any piece of food equipment and any adjacent equipment, counter top, or part of the mobile food unit structure except that food equipment or machinery of a size and weight that can easily be picked up and moved by one person, and with flexible connections, need not comply with minimum space requirements. No threads, nuts, or rivets shall be exposed where they interfere with cleaning. Should such threads,

nuts, or rivets interfere with cleaning they shall be capped.

C. All utensils shall be designed and constructed so as to be easily cleanable and shall be made of nontoxic materials.

D. Construction joints and seams shall be tightly sealed and if soldered must be smooth to the touch.

E. All tanks, lines, couplings, valves, and any other plumbing shall be designed, installed, maintained, and constructed of materials that will not contaminate the water supply, food, utensils or equipment.

F. Space around pipes, conduits, or hoses that extend through cabinets, floors, or outer walls shall be sealed. The seal shall be smooth and easily cleanable.

G. Mobile food units whose operations generate waste water, but are not required to comply with the specifications in Section 42.0164, shall be equipped with a waste water tank of at least five (5) gallons capacity which shall receive all drippage and drainage generated by the operation of the mobile food unit.

H. Any water or waste water tank, line, coupling, or valve shall be designed, installed, maintained, and constructed so as to prevent leakage or drainage except into leakproof waste tanks.

I. Any water, or waste water tank shall be installed so as to be easily drained, flushed and cleaned.

J. All pressure cylinders shall be securely fastened to a rigid structure of the mobile food unit. All

liquified petroleum equipment shall be installed to meet fire department standards and other laws that are applicable. When the mobile food unit is equipped with liquified petroleum, a minimum 5 B.C.-rated fire extinguisher to combat grease fires shall be installed on the exterior of each mobile food unit in a readily accessible place.

K. Adequate and suitable space shall be provided for the orderly storage of food and food service materials.

L. A minimum of ten footcandles of illumination shall be provided at all work surfaces whenever the mobile food unit is in operation. Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent. Light fixtures shall be installed so as not to constitute a hazard to personnel.

M. Compressor units that are not an integral part of equipment, auxiliary engines, generators, etc., shall be installed in an area that is completely separated from food preparation and food storage and which is accessible from outside the unit for proper cleaning and maintenance.

N. The food preparation and storage area shall be so constructed so as to be rodent proof.

O. Mobile food units which handle potentially hazardous foods shall be equipped with mechanical refrigeration to maintain such foods at or below 45 degrees Fahrenheit. If such food is to be heated, the mobile food unit shall be equipped with heating equipment to maintain such foods at or above 140 degrees Fahrenheit. No ice or

frozen jell packs shall be used to refrigerate potentially hazardous foods except that frozen foods such as ice cream may be refrigerated with dry ice.

P. Mobile food units shall be provided with waste receptacles constructed so as to be smooth, nonabsorbent, and easily cleanable.

Q. Each mobile food unit shall be clearly identified as to business name, address and city of the person owning or operating the unit. Such identification shall be easily legible in letters which contrast with their background and are at least three (3) inches high with a minimum 3/8 inch wide stroke.

SEC. 42.0164 MOBILE FOOD UNITS - CONSTRUCTION AND EQUIPMENT REQUIREMENTS FOR UNITS UPON WHICH UNPACKAGED FOODS ARE CARRIED

A. Mobile food unit serving area compartments where foods are prepared, portioned, assembled, stored, or displayed, shall be enclosed, shall have tightly fitted exterior doors, shall be free from cracks and crevices, and when closed shall give complete protection from the elements and insects. Food serving area compartments used for hot dogs or other unpackaged foods shall be equipped with an access opening not greater than four (4) square feet. All access doors, ports and hatches shall be self closing by means of spring hinges or the equivalent while not in use.

B. Mechanical exhaust ventilation equipment shall be provided over all cooking and heating equipment as required to effectively remove cooking odors, smoke, steam, grease

and vapors. Construction of food preparation enclosures shall be such that vapor condensate shall at no time fall into food below. Mechanical exhaust ventilation shall be maintained on at all times so as to remove condensate vapors from enclosed preparation compartments during heating and cooking.

C. When utensils are used to prepare, portion or assemble unwrapped foods on a mobile food unit, the unit shall be equipped with a two compartment sink for washing and cleaning utensils. This sink shall be provided with hot running water, at least 120 degrees Fahrenheit, and cold running water through a mixing swing faucet. Each sink compartment shall be at least 10 inches long, 9 inches wide, and 8 inches deep.

D. When unwrapped food is carried on a mobile food unit hand washing facilities, including a lavatory supplied with hot and cold running water with a mixing faucet, hand washing detergent or soap, and single-service sanitary towels in permanently installed dispensing devices shall be provided and maintained in each mobile food unit. The hand washing facilities shall be separate from the utensil washing sinks. The lavatory basin must have minimum dimensions of 9 inches long, 9 inches wide, and 5 inches deep. The hand washing facilities shall be separated from the utensil washing sinks by a metal guard with a height of at least three inches, extending from the back edge of the drainboard to the front edge of the drainboard; the corners

of the barrier shall be rounded. No separation barrier is required if the distance between the hand washing sink and the utensil drainboards is one foot or more.

E. When sinks or lavatories are installed on a mobile food unit a water supply tank of a least 7.5 gallons capacity and a waste water tank of at least 10 gallons capacity shall be installed. The water tank shall be filled only at the commissary, or a mobile food unit may be connected directly to an approved water supply and sewage disposal system, provided such connections meet Building Code requirements. Such units shall be equipped with a hose or other approved connection to attach to the water system. This connection shall be used for no other purpose and shall be protected from contamination at all times. In order to avoid confusion, all water supply connections shall be green in color. Waste lines shall be a color other than green.

F. A hot water heater with a minimum capacity of one gallon, or an instantaneous heater capable of producing water of 120 degrees Fahrenheit interconnected with the potable water supply, shall be provided when hot water is required on the mobile food unit. Hot and cold water, under pressure, shall be provided at hand washing and utensil sinks from mixing faucets.

SEC. 42.0165 MOBILE FOOD UNITS - DUTIES OF PERMITTEES AND OPERATORS

A. As a condition of the issuance of a permit, every permittee hereunder, and every person other than a permittee who is operating a mobile food unit pursuant to a

valid permit, shall comply with any request of the County Health Officer or his agent in the performance of his or her official duties in the inspection of the permittee's mobile food unit.

B. Each permittee or operator shall carry on his or her person a valid California driver's license or California identification card issued by the Department of Motor Vehicles, or other identification approved by the Department of Health Services, and shall present such identification upon request to law enforcement officers of the City or County of San Diego.

C. Each person operating a mobile food unit shall prominently display on such unit an original valid permit issued by the Department of Health Services for the vending unit.

D. Notwithstanding the issuance of a permit for a specified location no person shall stop or stand a mobile food unit at such location for the purpose of dispensing food under any circumstances in violation of stopping, standing or vending prohibitions or restrictions as provided by State law or the health, safety, traffic, business or other regulations set forth in the San Diego Municipal Code.

E. It shall be the responsibility of the operator to assure that patrons of the mobile food unit do not block or interfere with the free use of any public street, road, sidewalk, or other public right-of-way.

SEC. 42.0166 MOBILE FOOD UNITS - LOCATION OF OPERATION

A. All mobile food units shall operate from a fixed location within 25 feet of a building in which are located toilets and wash rooms meeting the requirements of Section 42.0108 of the San Diego Municipal Code. Hot and cold running water shall be supplied to the hand lavatory. Single service towels and soap stored in wall mounted dispensers shall be available at all times. Written permission for the operators of the mobile food units to use the toilet facilities within the building shall be placed on file with the Department of Health Services, and the mobile food units shall not be operated at any time that the mobile food unit operator does not have free access to the toilet facilities. In the case of an operator who is physically handicapped, strict compliance with the 25-foot distance requirement of this subsection may be waived for good cause by the Health Officer.

B. A current list of locations at which a permittee will operate a mobile food unit shall be submitted to the Health Officer. The Health Officer shall be notified in writing within 24 hours whenever a change is made.

C. No person shall operate a mobile food unit on any public street, highway, road, parkway, or sidewalk except in a Planned District as expressly permitted by other provisions of this Code. Under no circumstances shall the location or operation of a mobile food unit be permitted to interfere with the free use of the public right-of-way.

SEC. 42.0167 MOBILE FOOD UNITS - HEALTH PERMIT

A mobile food unit is a health regulated business and a health permit is required as specified in San Diego Municipal Code, Section 41.03.

A. A fee for a mobile food unit health permit shall be established by the Health Officer at full cost recovery for inspection services, with inspection frequency being as determined by the Health Officer.

B. Each person applying for a mobile food unit health permit, the renewal thereof, change of owner, or change of location shall file with the Department of Health Services an application in such form as prescribed by the Health Officer. The applicant shall specify location, periods of time, and dates or days upon which vending will occur at the specified locations. The application shall be accompanied by:

- (1) The required permit fee.
- (2) Written verification from the Building Inspection Department that, based upon inspection at the time of the initial health permit application, electrical and gas-operated equipment and appliances in the unit bear the label of an approved testing and inspection agency and are installed in accordance with the manufacturer's recommendation. Such written verification shall not be issued by the Building Inspection Department until a fee, the amount to be established by the City Manager and filed in the office of the City Clerk, has first been paid to the

City Treasurer.

(3) A letter from the operator of the commissary where the mobile food unit will be stored, cleaned, loaded and serviced indicating that such functions will be performed as required by this ordinance and certifying that the facilities and operations of the commissary comply with all State and local health laws.

C. When the Health Officer determines that all provisions of the Code are complied with, he or she shall issue a permit to the applicant for each individual mobile food unit. A permit granted pursuant to this section shall be issued only to the owner or lessee of the mobile food unit and shall be nontransferable.

SEC. 42.0168 MOBILE FOOD UNITS - REVOCATION OF PERMITS

A. Grounds. The Health Officer may revoke or suspend any mobile food unit permit on any of the following grounds:

(1) Violation of any of the provisions of this ordinance.

(2) The public interest and safety require that the mobile food unit no longer be permitted to use a location.

(3) Violation of any State or County health regulation.

(4) Nonpayment of fees.

(5) The applicant has knowingly made any false, misleading or fraudulent statement of material fact in

the application for the permit.

(6) Refusal to allow the County Health Officer or his agent to inspect the mobile food unit.

B. In the event any permittee or operator refuses to allow the County Health Officer or his agent to inspect a mobile food unit in the course of the performance of his or her official duties, all permits issued to such permittee shall be suspended and shall remain suspended until such time as consent is given to such inspection, subject to the following specified procedure:

(1) Upon refusal by a permittee to allow the County Health Officer or his agent to inspect a mobile food unit, the Health Officer or his agent shall serve notice upon the permittee in writing that all permits held by the permittee are suspended forthwith. Said notice shall state the date of mailing or date of service thereof, the basis for the suspension and that the permittee is entitled to a hearing on the matter upon application to the Health Officer.

(2) In the event the Health Officer revokes or suspends a permit pursuant to Subsection A of this section, the permittee shall be entitled to a hearing before the Health Officer, his agent, or a hearing officer designated thereby, provided that an application for such a hearing is submitted to the Health Officer within 10 days of the mailing or service of the notice of suspension. In the event an application for hearing is filed the Health Officer

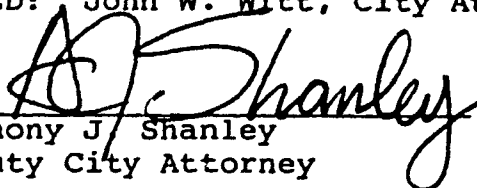
shall set the time of the hearing within 10 days of receipt of the application for hearing. The hearing may be continued for good cause. After the hearing, the Health Officer may approve, revoke, or suspend the permit and shall thereafter notify said permittee of his or her determination.

(3) All notices mailed under Subsection B shall be deposited in the United States mail in a sealed envelope, postage paid, addressed to the person involved at the person's last business address as it appears on the records of the Department of Health Services.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By


Anthony J. Shanley
Deputy City Attorney

AJS:vl:502
07/20/82
Or.Dept:PS&S
O-82-244
Form=r.none

AUG 16 1982

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Barbara Burridge, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

AUG 2 1982

AUG 16 1982

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Barbara Burridge, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-15803 Adopted AUG 16 1982

CERTIFICATE OF PUBLICATION

REC'D
FILED
SEP - 1 PM 1982
SAN DIEGO, CALIF.

SAN DIEGO, CITY OF
12th floor, 202 C St.
San Diego, CA 92101

ATTN: BERRIDGE

IN THE MATTER OF

NO.

ORDINANCE NO. 15803

ORDINANCE NO. 15803
(New Series)
AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 4209.1 RELATING TO PERISHABLE FOOD, AND BY ADDING SECTIONS 4209.2 THROUGH 4209.5 RELATING TO MOBILE FOOD UNITS.
This ordinance amends the Municipal Code to permit the operation of mobile food units, including hot dog stands and carts, on private property in the City of San Diego. The ordinance includes operating, sanitation, construction and equipment requirements as well as bases for the issuance and revocation of permits.
A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.
Introduced on AUGUST 2, 1982.
Passed and adopted by the Council of The City of San Diego on AUGUST 18, 1982.
AUTHENTICATED BY:
PETE WILSON,
Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.
(SEAL)
By BARBARA BERRIDGE, Deputy
Published August 23, 1982.

I, Charlene Casselman, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. 15803
(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

August 30, 1982

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 30th day of Aug, 19 82

Charlene Casselman

(Signature)

01013

2 1/2" x 2 x 8.87 = 44.35