

ORDINANCE NUMBER O- 16603 (NEW SERIES)

ADOPTED ON MAR 3 1986

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 42.0130 AND 42.0130.1 AND BY ADDING SECTIONS 42.0130.2, 42.0130.3, 42.0132.2 AND 42.0132.3 AND BY REPEALING SECTIONS 42.0135 AND 42.0136 RELATING TO VENDING VEHICLES OR MOBILE FOOD PREPARATION VEHICLES.

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 the same is hereby amended by amending sections 42.0130 and 42.0130.1 and by adding sections 42.0130.2, 42.0130.3, 42.0132.2 and 42.0132.3 and by repealing sections 42.0135 and 42.0136 to read as follows:

SEC. 42.0130 FOOD HANDLING ESTABLISHMENTS - SANITATION REQUIREMENTS FOOD VENDING VEHICLES

(a) As used in this section the term "vending vehicle" means any vehicle selling, or offering to sell, food or beverages to the public.

(b) Owners and operators of vending vehicles shall, in addition to the following requirements, comply with the provisions of the Health and Safety Code, Titles 17 and 25 of the California Administrative Code and this Article as applicable.

1. Every owner or operator of vending vehicles shall have a service room or other sanitary location approved

by the Director of Health Services for the preparation of food sold from vending vehicles. Only food prepared in the service room or other approved location shall be sold from a vending vehicle. Service rooms or other approved locations shall comply with regulations for food handling establishments. A headquarters shall be established for all vending vehicles and all vending vehicles shall be stored at such headquarters when not in use.

2. If the Director of Health Services certifies that an owner or operator of vending vehicles continuously maintains all perishable food intended for sale from a vending vehicle at a temperature of not more than 45 degrees Fahrenheit, from the time of preparation until service to the consumer, such food may be sold for a period not exceeding seventy-two (72) hours after preparation.

3. All packaged perishable food shall be clearly marked with the last date the food may be sold.

4. Vending vehicles shall dispense only single-service disposable cups, plates, forks and spoons.

5. No person shall operate, or cause to be operated, a food vending vehicle upon which is carried cold perishable foods unless it is furnished with mechanical refrigeration equipment, in good working order, sufficient to maintain perishable food and beverage products at a temperature not in excess of 45 degrees Fahrenheit, except that frozen perishable foods may be refrigerated with dry ice.

6. Nothing in this section shall prohibit the operation of a food vending vehicle equipped to manufacture ice cream provided the vehicle complies with all of the requirements pertaining to such vehicle contained in the California Health and Safety Code, the California Agriculture Code and California Administrative Code Titles 3, 17 and 25.

7. Every owner or operator of vending vehicles upon request of the Health Officer's agents shall provide an itinerary of each vending vehicle including address of regular stops and arrival times at each regular stop.

It shall be a misdemeanor to violate any of the requirements of this section.

SEC. 42.0130.1 FOOD VENDING VEHICLES-SPECIAL EVENT
EXCEPTIONS

Notwithstanding the provisions of section 42.0130,

(a) As used in this section, the term "vending vehicle" means any vehicle selling, or offering for sale, prepackaged food or beverages to the public.

(b) As used in this section, the term "mobile food preparation unit" means any wheeled vehicle upon which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution on board the vehicle to the public.

(c) "Organized gathering" means any special event such as fairs, circuses, carnivals, rodeos, parades, sports tournaments, swap meets or other similar events open to the public or other event designated by the City Manager as an organized gathering.

(d) The Health Officer may permit vending vehicles or mobile food preparation units to be operated at organized gatherings to which the public may attend by discretion or by invitation.

(e) This section does not include mobile food units, which are defined and regulated under the provisions of sections 42.0160 through 42.0168.

(f) Owners and operator of vending vehicles and mobile food preparation units shall, in addition to the following requirements, comply with the provisions of this Article as applicable:

1. Adequate toilet facilities shall be provided for the employees of a vending vehicle or mobile food preparation unit, as prescribed in the California Administrative Code, Title 17, Chapter 5, Article 10, section 13609(g). In no cases shall a toilet facility be used which is located in a private home, dwelling or residence.

2. Any mobile food preparation unit shall comply with the requirements of the California Administrative Code, Title 17, Chapter 5, Articles 10 and 10.1, commencing with sections 13600 through 13616, and the requirements of the San Diego County Code of Regulatory Ordinances commencing with sections 61.178 through 61.179.

3. Any vending vehicle shall comply with the requirements of section 42.0130 and shall be kept clean and sanitary.

4. In addition to the Health Permit for the vehicle, a separate Health Permit shall be required for each site the vending vehicle or mobile food preparation unit sells, offers for sale, distributes or gives away food at each organized gathering. The site permit shall be issued for a ninety calendar day period of which said permit may be renewed at the end of such time for an additional ninety day calendar period. The applicant may renew said site permit without limitation. The fees, sufficient to cover costs of investigation and enforcement of the provisions of this division, the exact amount of which shall be determined by the County, shall be paid by the person applying for the permit at the time of application. As a condition of said permit, the permittee shall notify the Health Officer of any intended operation of the vending vehicle or mobile food preparation unit at least five (5) days prior to said operation. In addition, the applicant shall file with the Health Officer written permission from the person in charge of the toilet facility at the permitted site for foodhandlers who operate the vending vehicles or mobile food preparation units to use said toilet facilities during all times the vehicle or unit is in operation. The permit is not transferable and is valid only for the specific site for which said permit is issued.

5. In the event that it is the intent of the vending vehicle or mobile food preparation unit operator to use a specific vehicle or unit at more than one organized

gathering at separate sites, a separate Health Permit for each site shall be obtained, fees paid and approvals granted for each organized gathering. The times in which the vending vehicle or mobile food preparation unit is to be on site shall be indicated on the permit, and the vehicle or unit shall operate only within those specified times.

6. All such vending vehicles or mobile food preparation units shall be removed from the site of the organized gathering at the conclusion of the day's events or as may be required to the approved commissary or headquarters location for the purposes of servicing, cleaning and restocking the vehicle or unit or providing any other types of services required to keep the vehicle or unit in a clean and sanitary manner and in good repair. Any mobile food preparation unit which is connected to on-site potable water, power and approved sewage systems will not be required to be removed to the commissary location as stipulated. The electrical connection shall be made by means of a single continuous supply cord of a size and type recommended or approved by the coach manufacturer. The sewage disposal, shall be by means of a permanently installed receptor. The Department of Health Services may require the licensee of the mobile food preparation unit to furnish verification by a licensed contractor that the water, power and/or sewage disposal systems are being maintained in a manner consistent with the public health and safety. Any vehicle used for the transportation of food, supplies or related items in the

support of a mobile food preparation unit or vending vehicle, shall have a separate permit issued by the Health Officer, and meeting all applicable requirements.

SEC. 42.0130.2 MOBILE FOOD PREPARATION UNITS - REGULATIONS

(a) As used in this section, the term "mobile food preparation units" shall be the same as defined in section 27526 of the California Health and Safety Code.

(b) Owners and operators of mobile food preparation units shall, in addition to the following requirements, comply with the provisions of this Article as applicable.

1. Vehicle ambient air temperature shall be maintained in each work area to provide reasonable comfort consistent with standards of the restaurant industry for the nature of the process and work performed. If excessive heat or humidity is created, the owner or operator of the mobile food preparation unit shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

2. Mobile food preparation units shall be equipped with at least one seat with backrests for each employee to be transported in such units. Said seats shall be properly secured in place. Seats shall not be less than fifteen (15) inches or more than nineteen (19) inches above the floor, at least ten (10) inches deep, at least eighteen (18) inches wide. The backrests shall extend to a height of at least thirty-six (36) inches above the floor. Seats shall be provided with seats belts as required by the California Vehicle Code.

3. All cutting tools or tools with sharp edges carried in a mobile food preparation unit shall be placed in covered boxes or containers while the unit is in motion, and all other tools and cooking equipment shall be secured to the body of the vehicle while the unit is in motion. Tools with cutting edges protected by scabbards or similar guards shall be considered as being in containers.

4. An alternate means of exit, other than the main exit door, shall be provided in the exterior wall and in the roof of the vehicle with unobstructed passages to the outside. Such passage shall be at least twenty-four (24) inches by twenty-four (24) inches or adequate for unrestricted egress by an adult. The alternate means of exit shall have an interior latching mechanism which shall be operated by hand without special tools or key. Such exit shall be labeled "safety exit" in contrasting colors with letters at least one (1) inch high.

5. All loads carried in a mobile food preparation unit shall be secured against dangerous displacement either by proper piling or securing in a manner as to prevent shifting, toppling or otherwise becoming unstable.

6. No cooking or food preparation shall be done while the mobile food preparation unit is in motion.

7. A headquarters shall be established for all mobile food preparation units and said units shall be stored at such headquarters when not in use.

8. The headquarters parking area for mobile food preparation units shall be paved with a paving material such as concrete or asphalt. The surface of the paving shall slope to drain and shall not pond water. Said surface shall be kept in good repair. The storage area shall contain a liquid waste dump station and there shall be installed a concrete apron surrounding the waste receptor for a distance of ten (10) feet in each horizontal direction sloping to the drain.

9. Waste water shall not be permitted to flow into the street from the headquarters parking area.

10. Lights shall be provided for the parking area to provide at least two (2) foot candles of illumination when measured thirty (30) inches above the pavement.

11. Mobile food preparation units which do not properly control food temperature, which lack running water, which have a defective liquid waste collection tank or which otherwise are unable to operate in a sanitary manner so as to pose an immediate danger to the public health may be removed from operation by order of the Health Officer or his designated representative.

SEC. 42.0130.3 MOBILE FOOD PREPARATION UNITS TO COMPLY WITH
STATE LAW

All mobile food preparation units shall bear an insignia of approval or other proof of approval issued by the State of California to indicate compliance with all applicable laws and regulations of the State of California.

SEC. 42.0132.2 AUTHORITY TO ARREST

The Health Officer and any officer or employee designated by him is hereby authorized to arrest a person without a warrant whenever he has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his presence, which is a violation of any statute or ordinance, or regulation relating to the operation of mobile food preparation units which the Health Officer or such officer or employee has the duty to enforce, including but not limited to provisions of the State of California Health and Safety Code, provisions of the California Administrative Code, and all City ordinances relating to mobile food preparation units. In any case in which a person is arrested pursuant hereto and the person arrested does not demand to be taken before a magistrate, the public officer or employee making the arrest shall prepare a written notice to appear and release the person on his promise to appear, as prescribed by Chapter 5C (commencing with section 853.6) of the Penal Code. The provisions of said Chapter 5C shall thereafter apply with reference to any proceeding based upon the issuance of the written notice to appear. Authority to arrest is granted in accordance with Penal Code section 836.5.

SEC. 42.0132.3 RESPONSIBILITY FOR VIOLATIONS

The owners, managers or operators of any food vending vehicle are responsible for the violation of any provisions of this Article by their servants, agents or employees, and

any permit may be suspended or revoked, as appropriate, for such violations. It shall be a misdemeanor to knowingly violate any of the provisions of this Article.

SEC. 42.0135 MILK HANDLING ESTABLISHMENTS - REGULATED

Repealed.

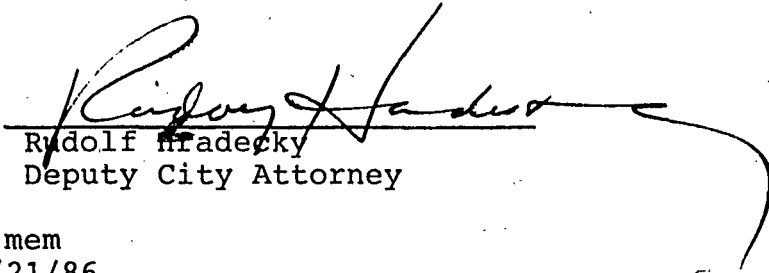
SEC. 42.0136 MILK HANDLING ESTABLISHMENTS - NO FEE PERMIT

Repealed.

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


Rudolf Hradecky
Deputy City Attorney

RH:mem
01/21/86
REV-1:02/06/86
Or.Dept:PS&S
O-86-137 REV-1
Form=o.code

Passed and adopted by the Council of The City of San Diego on MAR 3 1986
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VACANT

AUTHENTICATED BY:

ED STRUIKSMA
 Deputy Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

(Seal)

By *June A. Blackwell*, Deputy.

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

FEB 18 1986, and on MAR 3 1986

~~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 *June A. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16603 Adopted MAR 3 1986

00227

RECEIVED
CITY CLERK'S OFFICE
1986 JAN 30 PM 3:05
SAN DIEGO, CALIF.

00228

CERTIFICATE OF PUBLICATION

CITY OF SAN DIEGO
ATTN: JUNE A. BLACKNELL
OFFICE OF CITY CLERK
202 C STREET, 12TH FLOOR
SAN DIEGO, CA 92101

NO.

IN THE MATTER OF

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 42.0130 AND 42.0130.1 AND BY ADDING SECTIONS 42.0130.2, 42.0130.3, 42.0132.2 AND 42.0132.3 AND BY REPEALING SECTION 42.0135 AND 42.0136

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The San Diego Municipal Code is amended to permit vehicles selling hot lunches and food to be operated in the City of San Diego provided requirements for maintaining sanitation and proper temperature controls are met and the vehicle is otherwise operated according to applicable state and county law, and in accordance with an itinerary to be furnished to health department officials for periodic inspection. Vehicle standards are prescribed for employee sanitation, comfort and safety. The preparation of food in transit is prohibited, and standards are prescribed for storage of vehicles when not in use. Authority to arrest and issue citations for violations of law is granted to health department officials. The ordinance further repeals two sections concerning milk handling establishments, which are otherwise regulated by state law.

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.

Re-introduced on February 18, 1986.
Passed and adopted by the Council of The City of San Diego on March 3, 1986.

AUTHENTICATED BY:
ED STRUIK SMA
Deputy Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.

(SEAL)
By JUNE A. BLACKNELL, Deputy.
Published March 17, 1986

44710

I, Gerald F. Blair, 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 NUMBER O-16603 (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:

MARCH 17, 1986

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

Dated at San Diego, California this 17th day of MARCH, 1986

Gerald F. Blair

(Signature)

3 1/4 x 2 x 9.76 = \$ 63.44

00229