

ORDINANCE NUMBER O- 17116 (NEW SERIES)

ADOPTED ON JUL 25 1988

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 1, BY REPEALING SECTION 42.0132 RELATING TO HEALTH REGULATED ESTABLISHMENTS - VENDING VEHICLES - PARKING REGULATED AND CHAPTER V, ARTICLE 4, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 54.0122 RELATING TO REGULATING SALES FROM VENDING VEHICLES AND 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 the same is hereby amended by repealing Section 42.0132.

Section 2. That Chapter V, Article 4, Division 1, of the San Diego Municipal Code be and the same is hereby amended by adding Section 54.0122, to read as follows:

SEC. 54.0122 PROHIBITIONS AND REGULATIONS APPLICABLE TO THE SALE OR DISTRIBUTION OF FOODS, BEVERAGES, MERCHANDISE OR SERVICES FROM VEHICLES AND MOBILE FOOD UNITS.

a. Purpose and Intent. The Council hereby finds and declares that the unrestricted sale or distribution or the offering for sale or distribution of food, beverages, merchandise or services from vehicles or mobile food units within or upon public streets, sidewalks and rights of way, public property or in the vicinity of school buildings, under certain

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SAN DIEGO, CALIF.

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circumstances, constitutes a danger to public safety because of the likelihood of injury to pedestrians thereby exposed to hazards from other vehicular traffic in the vicinity. The Council further finds that the unauthorized use of public property for private commercial activity constitutes a misuse of public property and tax money and that similar activity on private property when not in conformity with health, safety, zoning and land use regulation is contrary to the public welfare.

b. Definitions.

1. The terms "vehicle," "street" and "highway" are defined by the Vehicle Code of California.

2. "Public property" shall mean any real property owned or controlled by or leased or assigned to a governmental entity excluding such property as has been leased out by that entity for nongovernmental purposes. It shall also include unimproved streets and rights of way or similar easements for public access and use over which the public entity has a legal interest or right of control, other than a publicly maintained street or highway.

3. The term "Mobile food unit" is any non-self-propelled or non-motorized vehicle or similar vending device defined in section 42.0160 of this Code.

4. "Public school" shall refer to any public elementary school, middle school, junior high school or

high school as defined in the Education Code of California.

c. Prohibitions. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a vehicle on a street or highway unless the vehicle is first lawfully parked or stopped and then remains for no longer a period of time than is necessary to complete the immediate sale. An operator is considered to be engaged in an "immediate sale" when there are patrons waiting in line for service. Operators of such vehicles shall maintain a minimum clear space of (10) feet both in front of and behind the vehicle to allow for pedestrian safety and safe sight distance for approaching motorists. No sales or distribution shall be made when the designated minimum clear space of ten (10) feet does not exist.

d. No food or beverage shall be sold or distributed or offered for sale or distribution from a mobile food unit on a street or highway, on public property or upon a sidewalk without a permit from the City Manager or designee authorizing such sale or distribution pursuant to section 42.0166 of this Code.

e. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution, whether from a vehicle or otherwise, upon public property without the authorization of the public entity.

f. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a vehicle or mobile food unit on private property without the express consent of the owner or lessee of the property and except in conformity with health, safety, zoning and land use regulations or permits pertaining to the site from which the sale or distribution is conducted.

g. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a vehicle within five hundred (500) feet from any public school building, measured in a straight line to the nearest point of the school building, between 7:00 a.m. and 4:00 p.m. on regular school days, except in a designated commercial loading zone in conformity with applicable restrictions thereto or except on private property with the express consent of the owner or lessee of the property and in conformity with health, safety, zoning and land use regulations and permits pertaining to the site from which the sale or distribution is conducted.

h. Non-defenses. It shall not be a defense to a violation of this section that the violator or the violator's principal or agent had been issued a City business license or paid a City business tax, nor that a governmental permit had been issued unless such permit authorized the permit holder to conduct the activity at

a designated location or locations under specified times and/or conditions and such sales or distribution activity was in conformity with those terms and conditions.

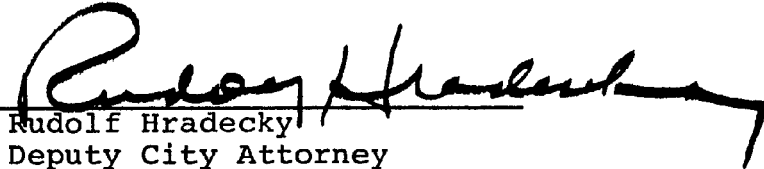
i. Severability. If any subsection of this section or portion thereof is declared invalid by a court of competent jurisdiction, that declaration shall not affect the validity of the remaining portion or portions of this section.

j. Construction with other laws. Nothing in this section shall be deemed to excuse compliance with any law or regulation pertaining to health, zoning, public safety or land use under applicable state law or the municipal code, including the issuance of any permits thereunder.

Section 3. 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:mrh
03/21/88
06/01/88 REV. 1
07/19/88 REV. 2
Or.Dept:Police
O-88-155
Form=o.none

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Passed and adopted by the Council of The City of San Diego on **JUL 25 1988**,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<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"/>
H. Wes Pratt	<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"/>
J. Bruce Henderson	<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"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

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

(Seal)

By *June G. Blackwell*, 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 **JUL 11 1988**, and on **JUL 25 1988**.

~~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 G. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number **0-17116** Adopted **JUL 25 1988**

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE

1988 AUG 11 AM 9:52

SAN DIEGO, CALIF. 7

CITY OF SAN DIEGO
202 C STREET, 2ND FLOOR
SAN DIEGO, CA 92101
ATTN: JUNE A. BLACKWELL

IN THE MATTER OF

NO.

ORDINANCE AMENDS

ORDINANCE NUMBER 0-17116 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 1, BY REPEALING SECTION 42.0132 RELATING TO HEALTH REGULATED ESTABLISHMENTS - VENDING VEHICLES - PARKING REGULATED AND CHAPTER V, ARTICLE 4, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 54.0122 RELATING TO REGULATING SALES FROM VENDING VEHICLES AND MOBILE FOOD UNITS.

This ordinance amends the San Diego Municipal Code by repealing Sections 42.0132 which regulated food and beverage sales from vending vehicles as a health regulated matter and by adding Section 54.0122 to regulate sales activity involving food, beverages, merchandise and services from designated and defined vending vehicles as a police matter.

Section 54.0122 generally regulates the sale or distribution or the offering for sale or distribution of food, beverage, merchandise or services from vehicles or mobile food units upon public streets and highways, upon public property within the City of San Diego and in the vicinity of public schools and upon private property.

Such sales activity upon the streets is prohibited unless the vending vehicles is first lawfully parked or stopped and then remains for no longer a period of time than is necessary to complete the immediate sale and at least a ten (10) foot clear space is present to the front and rear of the vehicles while sales are made.

Food or beverage sales from mobile food units, which are defined as non-motorized or non-self propelled vending units, are prohibited on the streets or highways or on public property or sidewalk without the authorization of the City Manager or Planning Director.

Any sales activity upon public property is prohibited without the public entity's authorization. Sales activity on private property from vehicles or mobile food units is prohibited without the owner or lessee's express permission and except in conformity with health, safety, zoning and land use regulations pertaining to the sales site. Such sales are also prohibited within five hundred (500) feet from any public school building except in designated commercial zones or on private property with the owners express permission and in conformity with health, safety, zoning and land use regulations.

It shall not be a defense to violation of section 54.0122 that a business license was issued or a business tax paid or that a permit had been issued by a governmental agency unless the permit authorized the activity at the location and the sales or distribution activity was conducted consistent with such authorization.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Re-introduced on JUL 11 1988.
Passed and adopted by the Council of The City of San Diego on JUL 25 1988.

AUTHENTICATED BY:
MAUREEN O'CONNOR
Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.
By JUNE A. BLACKWELL, Deputy.

Pub. August 8 118278

THOMAS D. KELLEHER

I, _____, 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 0-17116 (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 8, 1988

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

Dated at San Diego, California this 8 day of AUGUST, 19 88.



(Signature)

5 1/4" x 2 = \$119.20