

ORDINANCE NUMBER O- 19609 (NEW SERIES)

DATE OF FINAL PASSAGE APR 27 2007

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 2, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 42.0160, 42.0161, AND 42.0166 ALL RELATING TO REGULATIONS INVOLVING THE OPERATION OF MOBILE FOOD UNITS

WHEREAS, Chapter 4, Article 2, Division 1 of the San Diego Municipal Code is a comprehensive set of rules and regulations on the operation of mobile food units that are intended to protect the public; and

WHEREAS, the stated purpose and intent of those sections is to protect the public from unhealthy and unsanitary conditions, which can exist on mobile food units, by enacting regulations and provisions governing the rules under which vendors can sell or distribute certain food items in the City of San Diego; and

WHEREAS, per the current ordinance, mobile food unit vendors may sell only one or more of five listed food items; and

WHEREAS, some ice cream trucks are reportedly selling toys, fake firearms, and other goods contrary to the requirement to sell only certain foods; and

WHEREAS, it is the intent of the City Council to strengthen and clarify language in the Municipal Code regulating mobile food units; and

WHEREAS, the City Council wishes to amend Municipal Code sections 42.0160, 42.0161 and 42.0166 to provide better enforcement tools for those individuals charged with inspecting vendors and enforcing vending laws; NOW, THEREFORE,

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

Section 1. That Chapter 4, Article 2, Division 1, of the San Diego Municipal Code is amended by amending Sections 42.0160, 42.0161 and 42.0166 as follows:

**§42.0160 Mobile Food Units — Definitions**

(a) MOBILE FOOD UNIT means any food establishment which is readily movable, including, but not limited to, ice cream trucks, 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) through (c) [No change in text]

**§42.0161 Mobile Food Units — Operating Requirements**

(a) Mobile food unit operations are limited to the sale or distribution of only one or more of the following:

(1) through (5) [No change in text]

Utensils related to the consumption of the above items may be provided by the mobile food units operation. The sale or distribution of any other items is prohibited.

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- (b) In addition to enforcing applicable federal, state and local laws the City intends to strictly enforce any violations of the California Penal Code regarding the sale, distribution and display of BB devices and Imitation Firearms. Violations of the mobile food unit sections may be pursued as both a regulatory and a criminal violation.
- (c) 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.
- (d) 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.
- (e) During transportation and storage mobile food units shall be protected from contamination.
- (f) Food condiments shall at all times be protected from contamination and, where available for self-service, shall be prepackaged.
- (g) Potentially hazardous foods shall be maintained at temperatures at or below 45 degrees Fahrenheit, or at or above 140 degrees Fahrenheit.
- (h) 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.

- (i) Utensils shall be used for dispensing food and shall be kept clean and in good repair.
- (j) 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.
- (k) All food shall be displayed, stored, dispensed and handled so as to minimize manual contact.
- (l) All mobile food unit surfaces and equipment shall be kept clean and in good repair.
- (m) 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.
- (n) 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.
- (o) The waste tank shall be emptied only at the commissary or at a location approved by the Health Officer.

- (p) 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.
- (q) 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.
- (r) 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.

**§42.0162 Mobile Food Units — Sanitation**

[No change in text]

**§42.0163 Mobile Food Units — Construction and Equipment Requirements**

[No change in text]

**§42.0164 Mobile Food Units — Construction and Equipment Requirement for Units upon which Unpackaged Foods are Carried**

[No change in text]

**§42.0165 Mobile Food Units — Duties of Permittees and Operators**

[No change in text]

**§42.0166 Mobile Food Units — Location of Operation**

(a) through (c) [No change in text]

(d) This section does not apply to ice cream trucks that are engaged in the curbside vending or sale of frozen or refrigerated desserts commonly known as ice cream, or prepackaged non-potentially hazardous food or beverages.

**§42.0167 Mobile Food Units — Health Permit**

[No change in text]

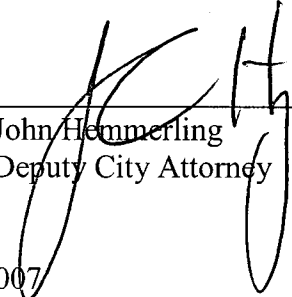
**§42.0168 Mobile Food Units — Revocation of Permits**

[No change in text]

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written copy having been available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
John Hemmerling  
Deputy City Attorney

JH:al:lb  
03/07/2007  
Or.Dept:Police  
O-2007-107

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 24 2007.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 4-27-07  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor