

ORDINANCE NO. **034-04 C.S.**

AN ORDINANCE AMENDING CHAPTER 7, PART 1, OF THE STOCKTON MUNICIPAL CODE BY ADDING DIVISION 9, SECTIONS 7-049 THROUGH 7-049.14, REGARDING MOTORIZED FOOD WAGONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE.

Chapter 7, Part 1, of the Stockton Municipal Code is hereby amended to add Division 9 and shall read as follows:

Division 9
MOTORIZED FOOD WAGONS

SEC. 7-049. SHORT TITLE:

This Division shall be known as the "Motorized Food Wagon Ordinance."

SEC. 7-049.1 PURPOSE:

The general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare by requiring that new and existing motorized food wagon vendors provide the community and customers with a minimum level of cleanliness, quality, safety, and security.

SEC. 7-049.2 DEFINITIONS:

A. "Business Owner" shall mean any person, firm, or corporation, which owns or controls any interest in any business engaged in vending as defined in Subsection F hereof.

B. "Commissary" shall mean a food establishment in which food, containers, equipment, or supplies are stored or handled for use in motorized food wagons.

C. "Linear Frontage" is the method used to determine distances as used in this Division.

D. "Motorized food wagon" shall mean any vehicle as defined in Section 670 of the California Vehicle Code, which is equipped and used for retail sales of prepared; pre-packaged; or unprepared, unpackaged food or foodstuffs of any kind on any public street, alley, highway, or private street, alley, or property within the City of Stockton. For the purposes of this Division, a motorized food wagon shall also include any trailer or wagon pulled by a vehicle.

E. "Persons" shall mean any person, firm, partnership, association, or corporation, and includes, but is not limited to, owners, operators, drivers, lessors, and lessees of motorized food wagons.

F. "Vend" or "Vending" shall mean the sale of prepared; pre-packaged; or unprepared, unpackaged food or foodstuffs of any kind from a motorized food wagon on private or public property. Vending from a motorized food wagon generally has the following characteristics:

City Atty
Review LSW
Date November 29, 2004

- 1) Food is ordered and served from a take-out counter that is integral to the motorized food wagon;
- 2) Food is paid for prior to consumption;
- 3) Motorized food wagons from which the food is sold typically have a take-out counter and space for customer queuing;
- 4) Food and beverages are served in disposable wrappers, plates, or containers; and
- 5) Food and beverages are prepared and sold for off-site consumption.

G. "Vendor" shall mean any person who drives or otherwise operates a vehicle for the purpose of vending therefrom.

SEC. 7-049.3 APPLICATION:

A. A person desiring to engage in a vendor operation, as defined by this section, shall submit a written application in a form acceptable to and with all supporting information required by the City of Stockton. Such application shall be accompanied by a non-refundable, non-transferable application fee in an amount as established by Resolution of the City Council. Any such permit shall be required to be renewed annually and a separate non-refundable, non-transferable application fee shall be paid yearly for such renewal application. A separate permit must be obtained for each motorized food wagon the vendor operates. Vendors must have the permit in their possession when vending.

B. A vendor must obtain a background check in accordance with the requirements of Section 6-034.20 of this Code.

C. Every vendor shall provide proof of a valid California Driver's License, current vehicle registration, and a copy of an applicable vehicle insurance policy.

D. Every vendor shall submit four photographs (showing different exterior views) of each motorized food wagon.

E. If the motorized food wagon is located on private property, the vendor shall provide an affidavit in a form approved by the City from the property owner (if other than self) permitting the vendor to locate on the site.

F. Every vendor shall submit a copy of a current San Joaquin County Environmental Health permit. For a City of Stockton permit renewal application, vendors must show proof of payment to a commissary for the prior twelve (12) months.

G. Every Business Owner shall obtain a City of Stockton Business License.

SEC 7-049.4 REGULATIONS FOR SALES:

It shall be unlawful for any person to vend, or attempt to engage in vending or operate any vehicle or conduct any business for the purpose of vending from any vehicle parked, stopped, or standing upon any public street, alley, highway, or property, or private street, alley, or property within the City of Stockton except in accordance with all applicable provisions of this Code.

SEC. 7-049.5 LOCATION:

A. A motorized food wagon may locate in the public right-of-way subject to the following conditions:

- 1) A motorized food wagon shall not operate within three hundred (300) feet of any school grounds, park, playground, or City-operated recreation center.

- 2) A motorized food wagon shall not operate within one hundred (100) feet of any street intersection controlled by a traffic light or stop sign.
- 3) In addition to the above, a motorized food wagon must comply with the following regulations, depending upon the type of use in which it is located:
 - a. Residential Use Area:
 - i. In a Residential Use Area, a motorized food wagon shall move not less than four hundred (400) feet at least every thirty (30) minutes and may not return to a previous location or within four hundred (400) feet of a previous location on the same calendar day.
 - ii. Permitted hours of operation are from 7:00 a.m. to 8:00 p.m.
 - iii. A motorized food wagon may not be located within four hundred (400) feet of another motorized food wagon.
 - b. Commercial Use Area:
 - i. In a Commercial Use Area, a motorized food wagon shall move not less than four hundred (400) feet at least every three (3) hours and may not return to a previous location or within four hundred (400) feet of a previous location on the same calendar day.
 - ii. Permitted hours of operation are from 6:00 a.m. to 12:00 a.m.
 - iii. If a motorized food wagon is located in a Commercial Use Area and is within four hundred (400) feet of a residence, it shall comply with the requirements listed above for Residential Use Area.
 - c. Industrial Use Area:
 - i. In an Industrial Use Area, a motorized food wagon may operate twenty-three (23) hours a day.
 - ii. If a motorized food wagon is located in an Industrial Use Area and is also within four hundred feet (400) feet of a residence, it shall comply with the requirements listed above for Residential Use Area.
- 4) No motorized food wagons shall be located or maintained on public property, including bicycle pathways, inconsistent with any other City regulations.

B. A motorized food wagon may locate on private property subject to the conditions listed in section 16-365.020(B)(4) of this Code.

SEC. 7-049.6 EXEMPTIONS:

A. Any person engaged in vending where such person has been authorized by the City of Stockton to engage in such activity by a special event permit, lease, real property license, agreement, or other entitlements issued by the City of Stockton.

B. Any person delivering any goods by vehicle where such goods have been ordered in advance for such delivery from any business located at a permanent location and which goods are being delivered from such location to the customer by vehicle, regardless of the point of sale.

SEC. 7-049.7 APPLICATION OF OTHER LAWS AND REGULATIONS:

A. The provisions of this Division prohibiting the stopping or parking of a vehicle shall apply at all times or at those times specified by this Division, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

B. The provisions of this Division imposing a time limit on stopping or parking shall not relieve any person from the duty to observe other more restrictive provisions of the California Vehicle Code, this Code or any other ordinances of the City, prohibiting or limiting the stopping or parking of vehicles in specified places or at specified times.

SEC. 7-049.8 CONDITION/APPEARANCE OF VEHICLE:

A. The motorized food wagon shall display, in plain view and at all times, current permits and licenses.

B. The motorized food wagon shall be entirely self-sufficient in regards to gas, water, and telecommunications. Should any utility hook-ups or connections to on-site utilities be required, the vendor shall be required to apply for appropriate permits to ensure building and public safety and consistency with applicable building codes.

C. The vendor shall not discharge items onto the sidewalk, gutter, storm inlets, or streets.

SEC. 7-049.9 CONDITION/APPEARANCE OF SITE:

A. The site shall be maintained in a safe and clean manner at all times.

B. No tables, chairs, fences, shade structures, or other site furniture, (permanent or otherwise) or any free-standing signs shall be permitted in conjunction with the motorized food wagon.

C. Exterior storage of refuse, equipment, or materials associated with the motorized food wagon is prohibited.

SEC. 7-049.10 LIGHTING:

The vendor shall install adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties.

SEC. 7-049.11 SANITATION:

A. All motorized food wagons shall operate out of a commissary pursuant to California Health and Safety Code section 114287.

B. All motorized food wagons shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a vehicle, and the vendor of the motorized food wagon shall pick up all refuse generated by such operation within a twenty-five (25)-foot radius of the vehicle before such vehicle is moved. No vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such vendor.

C. A motorized food wagon shall comply with California Health and Safety Code section 114299.5 regarding the availability of adequate toilet facilities for use by food service personnel.

SEC. 7-049.12 SAFETY AND SECURITY:

A. No vending shall be permitted except after the motorized food wagon has been brought to a complete stop and parked in a lawful manner.

B. The vendor shall install signage in a visible location indicating that loitering is not permitted and customers may only remain on the lot for up to fifteen (15) minutes after receiving their food.

C. The vendor shall enforce the no loitering rule.

SEC. 7-049.13 APPLICABILITY OF REGULATIONS TO EXISTING BUSINESS:

The provisions of this Division shall be applicable to all persons and businesses described herein whether the herein-described activities were established before or after the effective date of the ordinance.

SEC. 7-049.14 PENALTY:

A violation of this Division shall constitute a misdemeanor. Notwithstanding the foregoing, a violation of this Division is an infraction when the prosecutor files a complaint charging the offense as an infraction.

SECTION II. SEVERABILITY.

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

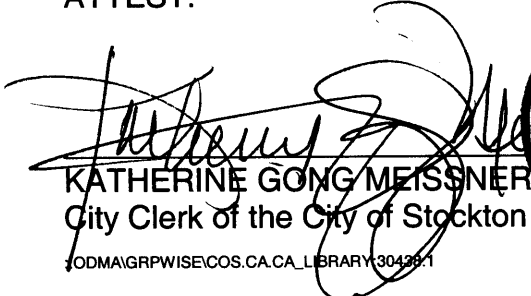
SECTION III. EFFECTIVE DATE.

This ordinance shall take effect and be in full force thirty (30) days after its passage.

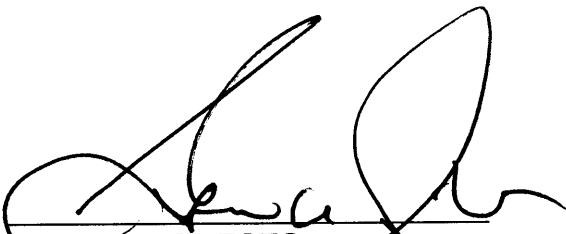
ADOPTED: NOV 23 2004

EFFECTIVE: DEC 23 2004

ATTEST:


KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

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GARY A. PODESTO
Mayor of the City of Stockton

