



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Consent Report
February 19, 2008

**Honorable Mayor and
Members of the City Council**

Title: Pass For Publication: Ordinance Amending Chapter 5.68 of the Sacramento City Code relating to Food Vending Vehicles and Section 5.88.030 of the Sacramento City Code Relating to Street and Sidewalk Sales

Location/Council District: Citywide

Recommendation: 1) Review the Ordinance amending Chapter 5.68 of the Sacramento City Code relating to food vending vehicles and section 5.88.030 of the Sacramento City Code relating to street and sidewalk sales; 2) pass for publication the Ordinance title as required by Sacramento City Charter §32(c) to be adopted February 26, 2008.

Contact: Dafna Gauthier, Business Permit Manager, 808-7800

Presenters: Dafna Gauthier, Business Permit Manager
Bradley Wasson, Revenue Manager

Department: Finance

Division: Revenue

Organization No: 1125

Description/Analysis

Issue: Regulation of the operation of food vending vehicles in the City.

Policy Considerations: Food Vending Vehicles provide convenient food and beverage service to residents and workers in all areas of the City of Sacramento. However, allowing food vending vehicles to operate unfettered for long periods of time, could lead to loitering, littering, hazards to vehicle traffic and pedestrians, unwanted noise and crime.

Food vending vehicles have been allowed to operate on private property in the City for long periods of time because of the conflicts within the Sacramento City Code, and the lack of enforcement. Amending the City Code to establish clear and reasonable regulations for the operation of food vending vehicles will benefit the public's health, safety and welfare.

Environmental Considerations: The proposed project is exempt from CEQA because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines-15061 (b) (3).)

Commission/Committee Action: The Law & Legislation Committee has reviewed this matter at three separate meetings on June 20, 2006, April 3, 2007 and January 15, 2008.

On January 15, 2008, the Committee unanimously approved staff's recommendation to forward this ordinance amending Chapter 5.68 and Section 5.88.030 of the Sacramento City Code to the City Council for adoption.

Rationale for Recommendation: The unregulated operation of food vending vehicles can result in threats to the health, safety, and welfare of the citizens of the City of Sacramento. However, staff has found a public demand for prolonged vending on private property and a need for the services in areas that may not have access to food service nearby. The proposed ordinance strikes a balance between the desire and need for these services and reasonable regulations that will mitigate the health, safety, and welfare concerns.

In brief, the proposed ordinance would, among other things, limit the operation of food vending vehicles depending on the type of property they are on.

On the public right of way, operation is limited to the daylight hours and for only 30 minutes at a time before moving at least 400 feet away.

On private property, the hours of operation are determined by the zoning district of the property.

- Operation is prohibited in Residential or Open Space zoning districts.
- In Commercial or Hospital Zoning Districts, operation is limited to daylight hours and for only 30 minutes at a time before moving at least 400 feet away.
- In Heavy Commercial or Industrial Zoning Districts, if the property is within 400 feet of a residence, operation is limited to daylight hours and for only 30 minutes at a time before moving at least 400 feet away. If the property is at least 400 feet away from a residence, then a food vending vehicle may operate at any time as long as the business on the property is open.

The proposed ordinance would also provide an exemption for persons with established operations on private property that would allow their continued operation for five years.

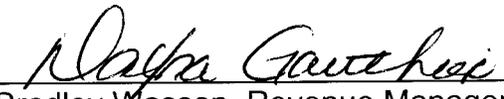
The 30 minute limitations on vending will keep the vehicles and their patrons from becoming significant hazards to vehicle and pedestrian traffic. In addition, limiting the time a food vending vehicle can stop in any one location will reduce the likelihood of loitering, crowds, noise disturbances, littering and related criminal activity. On the other hand, allowing prolonged vending in Heavy Commercial and Industrial Zoning Districts away from residences, makes these

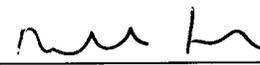
services available at locations where they are most needed and where the public's health, safety and welfare is less likely to be negatively impacted.

More detail on the effect of the proposed ordinance is discussed in the background information in Attachment 1.

Financial Considerations: The proposed amendments will not have a significant financial impact on the City's operating budget at this time. Staff will bring a resolution to City Council to update the Food Vending Vehicle permit fees.

Emerging Small Business Development (ESBD): There are no ESBD considerations as no goods or services are being purchased at this time.

Respectfully Submitted by 
Bradley Wasson, Revenue Manager
for Brad Wasson

Approved by: 
Russell Fehr, Director of Finance

Recommendation Approved:

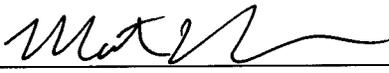

for Ray Kerridge
City Manager

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Attachment 1**Background Information**

Food vending vehicles (FVV) have been operating for prolonged periods of time on private property in the City of Sacramento because of the lack of enforcement and the conflicts and ambiguity in the City Code. In addition, the City's FVV code needs to be updated to provide more effective regulation and enforcement that is consistent with other City business permit codes (e.g. taxicabs).

The Proposed Ordinance

The proposed ordinance amends Chapter 5.68 of the Sacramento City Code relating to food vending vehicles and Section 5.88.030 of the Sacramento City Code relating to street and sidewalk sales. Vehicle and driver permits are still required, but the proposed ordinance will impose the following changes:

- The auto and general liability insurance requirement for each vehicle is increased to \$1 million dollars.
- No person shall operate a FVV unless the FVV has a permit decal and an assigned identification number permanently posted on the exterior of the vehicle.
- The vehicle permit is automatically suspended if insurance expires or is otherwise invalid.
- Permits may be revoked upon a violation of Section 10.60.020 regarding the broadcasting of sound from the vehicle.
- No signs, tables, chairs, fences, shade structures or other furniture are permitted near the site of the FVV.
- The FVV may not operate while connected to an external source of power, water or any other utilities.
- On the public right of way, a FVV may only operate during daylight hours and stop to vend for 30 minutes at a time, before moving to a new location at least 400 feet away. FVV cannot vend where the same FVV previously operated on the same day.

Where operation is allowed on private property, the vendor must have the consent of the owner of the property, the operation of the FVV must be an incidental use to the primary use of the property that complies with the zoning code, the parcel must not be vacant, and the surface must be paved with concrete, asphalt, or other similar material.

Operation will be allowed in non-stand-alone parking facilities, but they cannot block any parking spaces required for the primary use of the property.

On private property, the hours that FVV will be allowed to operate depends primarily on zoning:

- In Residential or Open Space zoning districts, operation is prohibited.
- In Commercial or Hospital Zoning Districts, a FVV may operate during daylight hours, and for only 30 minutes at a time before moving to a new location at least 400 feet away. A FVV cannot operate where the same FVV previously operated on the same day
- In Heavy Commercial and Industrial Zoning Districts where the property is within 400 feet of a residence, FVV are treated the same as a Commercial or Hospital Zoning District. A FVV may operate during daylight hours and for only 30 minutes at a time, before moving to a new location at least 400 feet away. A FVV cannot operate where the same FVV previously operated on the same day
- In Heavy Commercial and Industrial Zoning Districts where the property is at least 400 feet away from all residences, FVV are allowed to operate 24 hours a day, as long as the business located on the property is open.
- On construction sites, FVV are allowed to operate during the hours that construction activity is taking place for the purpose of vending to the construction workers.
- On stand-alone parking facilities, operation is prohibited.
- Vendors who have an established operation on private property since at least **January 1, 2006**, shall be exempt from the restrictions on Commercial or Hospital Zoning Districts and Heavy Commercial and Industrial Zoning Districts until March 31, 2013. These vendors will be allowed to operate between the hours of 5:00 a.m. and 2:00 a.m.
- The exemption applies only as long as the FVV permit to which it is related is continuously maintained and valid.
- A person who violates the provisions of this chapter is guilty of a misdemeanor.

History of Law & Legislation Committee Action

Staff has been working on this issue with the Law & Legislation Committee (“the Committee”), the FVV stakeholders, and the community since 2002. The following areas of

concern have emerged from these meetings:

- Health & Safety
- Public Safety
- Zoning
- Aesthetics
- Time Limits
- After-hour vending

Staff met with the Committee on June 20, 2006, April 3, 2007 and January 15, 2008 to address these issues.

On **June 20, 2006**, the staff recommendations were to allow FVVs to operate on private property only during the daylight hours and only for 15 minutes. At that meeting, there was an overwhelming response from customers who opposed staff's recommendations, and supported a popular FVV. The Committee requested staff to meet with the stakeholders and form a task force with Council Member Sheedy as Chair to discuss the issues and bring forth recommendations.

After that meeting, staff with Council Members, reviewed the Stockton ordinance, conducted additional research, and developed a list of recommendations. A stakeholder meeting chaired by Council Member Sheedy was then held on **January 8, 2007**. The parties at this meeting discussed the recommendations, suggested a few changes, and agreed upon a set of recommendations to take back to the Committee.

At the January 8, 2007 stakeholder meeting, vendors asked to be allowed to vend into the evening hours in non-residential areas. Staff later contacted the Sacramento Police Department, City Code Enforcement, and the Midtown Association to gather their input with regard to after hours vending, and to make recommendations to the Law & Legislation Committee.

The Midtown association stated that they had mixed reviews from their business patrons. The Sacramento Police Department and the Sacramento Code Enforcement both opposed after-hours vending for the following reasons:

- ✓ Residential and non-residential properties are close together in mid-town, and vending there may cause disturbances to nearby residences.
- ✓ Prolonged vending would cause loitering in the area and increase the likelihood of loud noise levels, littering, and criminal activity.
- ✓ Vendors parked in the street would block parking spaces, and may be a hazard to vehicle and pedestrian traffic.
- ✓ Patrons of the vendors may stand in the roadway or jaywalk to get to the vendors.

On April 3, 2007, staff advised the Committee of the task force's recommendations. Among them was the recommendation to allow FVVs to vend on private property in excess of 30 minutes only with a private property permit obtained by the vendor and the property owner. At the Committee meeting, an attorney representing some of the vendors objected

because he was not at the stakeholders meeting and disagreed with some of the recommendations. So staff was directed by the Committee to have another stakeholders meeting chaired by Council Member Hammond and return with a draft ordinance. Staff was also asked to specifically consider the regulations adopted by the City of Stockton and provide a comparison of the proposed ordinance with the regulations adopted by the City of Stockton.

On May 21, 2007 another stakeholder meeting was held. At that meeting, the discussion turned to regulating vendors based on the zoning of the property, and included the addition of a grandfather clause for vendors with established practices on private property. After the meeting, the ordinance was drafted and a follow up meeting with the stakeholders occurred on September 4, 2007 where consensus was reached.

On January 15, 2008, staff advised the Committee of the recommendations of the task force and submitted a proposed ordinance. Staff also provided the Committee with a copy of the Stockton ordinance and a table comparing it with staff's proposed ordinance. The Stockton ordinance is attached as Attachment 2, and the comparison table is attached as Attachment 3. The Committee unanimously approved staff's recommendation to forward the ordinance to City Council for adoption.

Attachment 2

Stockton Municipal Code

Chapter 7

HEALTH AND SANITATION CODE

Part I

FOOD PRODUCTS AND FOOD ESTABLISHMENTS

Division 9

MOTORIZED FOOD WAGONS

SEC. 7-049. SHORT TITLE:

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

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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:

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"/"Operator" shall mean any person who drives, operates, vends, and/or prepares food on or from a motorized food wagon.

(Added by Ordinance 007-05 C.S. – effective July 7, 2005)

SEC. 7-049.3 APPLICATION:

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. Vendors must have the permit in their possession when vending. There must be at least one Vendor with a valid permit on a motorized food wagon whenever vending is taking place.

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

B. Every Business Owner shall obtain a City of Stockton Business License. As part of the business license application, Business Owner shall provide the following:

- 1) Proof of current vehicle registration and a copy of an applicable vehicle insurance policy.
- 2) Four photographs (showing different exterior views) of each motorized food wagon.
- 3) A copy of a current San Joaquin County Environmental Health permit. For a City of Stockton business license renewal application, Business Owners must show proof of payment to a commissary for the prior twelve (12) months.
- 4) If the motorized food wagon is located on private property, the Business Owner 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.

(Added by Ordinance 007-05 C.S. – effective July 7, 2005)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

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.
- (Added by Ordinance 034-04 C.S. – December 23, 2004)

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.

(Added by Ordinance 034-04 C.S. – December 23, 2004)

Attachment 3

**A SUMMARY COMPARISON OF
SACRAMENTO'S CURRENT AND PROPOSED FOOD VENDING VEHICLE ORDINANCES
WITH STOCKTON'S CURRENT MOTORIZED FOOD WAGON ORDINANCE**

SUBJECT	SACRAMENTO CURRENT	STOCKTON CURRENT	SACRAMENTO PROPOSED
Permits & Licenses			
Vehicle Permit	Required to operate the vehicle (\$5.68.020)	--	Required to operate the vehicle (\$5.68.020)
Driver Permit	Required to drive or sell. (\$5.68.080; \$5.68.110(B)(5).)		Required to drive. (\$5.68.080.)
Vendor Permit	--	Vendor permit required to vend. (\$7-049.3(A).)	--
Business License	--	Required of every business owner. (\$7-049.3(B).)	--
Permit/License Application Requirements			
Insurance	Auto and general liability policy in amount no less than \$300,000. [Vehicle Permit application requirement.] (\$5.68.030(E); see \$5.68.060.)	Vehicle insurance policy. [Business License requirement] (\$7-049.3(B)(1).)	Auto and general liability policy in amount no less than \$1,000,000. [Vehicle Permit application requirement.] (\$5.68.030(A)(6); see \$5.68.060.)
County Health Permit	Sacramento County Health Department certificate. [Vehicle Permit application requirement.] (\$5.68.030(F).)	San Joaquin County Environmental Health permit. [Business License requirement] (\$7-049.3(B)(3).)	Proof of compliance with State and County regulations. [Vehicle Permit application requirement.] (\$5.68.030(A)(7).)

Vehicle Storage	The address where the food vending vehicle is stored when not in use. [Vehicle Permit application requirement.] (§5.68.030(G).)	--	The address where the food vending vehicle is stored when not in use. [Vehicle Permit application requirement.] (§5.68.030(A)(8).)
Background Check for Business Owner	Any person with a ten (10) percent or greater financial interest in the business which operates the food vending vehicle. [Vehicle Permit application requirement.] (§5.68.030(H).)	Background check into the permittee's business responsibility and moral character. [Business License requirement] (§6-026.1.)	Any person with a ten (10) percent or greater financial interest in the business which operates the food vending vehicle. [Vehicle Permit application requirement.] (§5.68.030(A)(9).)
Background Check for Driver	Food vending vehicle driver. [Driver Permit application requirement.] (§5.68.090(D).)	Any person who drives a motorized food wagon. [Vendor Permit application requirement.] (§7-049.3(A); 7-049.2(G).)	Food vending vehicle driver. [Driver Permit application requirement.] (§5.68.090(A)(4).)
Background Check for Others	--	Required for any "vendor" (any person who drives, operates, vends and/or prepares food on or from a motorized food wagon). (§7-049.3(A); 7-049.2(G).)	--
Proof of Commissary	--	For business license renewal, business owners must show proof of payment to a commissary for the prior 12 months. [Business License requirement] (§7-049.3(B)(3).)	--
Vehicle Photos	--	Four photographs (showing different exterior views) of each motorized food wagon. [Business License requirement] (§7-049.3(B)(2).)	--

Private Property Authorization	--	If the motorized food wagon is located on private property, the Business Owner 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 that site. [Business License requirement] (§7-049.3(B)(4).)	Not required in application, but express written consent is required to be submitted to the Director, in a form approved by the director, prior to vending on the private property. (§5.68.180(B).)
Insurance			
Insurance	Comprehensive auto and general liability policy in an amount no less than \$300,000. (§5.68.060.)	A vehicle insurance policy. [Business License requirement] (§7-049.3(B)(1).)	Comprehensive auto and general liability policy in an amount not less than \$1,000,000.00. (§5.68.060(A)(1).)
Public Right-of-Way			
Hours	April-October: 5am-8pm November-March: 5am-6pm (§5.68.110(B)(1)-(2).)	<u>Residential Use Areas:</u> 7am-8pm. <u>Commercial Use Areas:</u> 6am-12am.	April-October: 5am-8pm November-March: 5am-6pm (§5.68.170(A)-(B).)
Stops	Unlawful to stop more than 15 minutes without moving to new location at least 1 city block removed therefrom. (§5.88.030(E)(2).)	<u>Residential Use Area:</u> 30 minutes, move 400 feet, each location only once a day. <u>Commercial Use Areas:</u> 3 hours, move 400 feet, each location only once a day. If within 400 feet of a residence, Residential Use Area regulations apply. <u>Industrial Use Area:</u> 23 hours per day. If within 400 feet of a residence, Residential Use Area regulations apply. (§7-049.5(A)(3).)	Unlawful to stop more than 30 minutes without moving to new location at least 400 feet away. (§5.68.170(C).) Unlawful to stop within 400 feet of a location where the same vehicle previously operated on the same calendar day. (§5.68.170(D).)

Intersections	--	Prohibited within 100 feet of any street intersection controlled by traffic light or stop sign. (§7-049.5(A)(2).)	Prohibited within 100 feet of any street intersection controlled by traffic light or stop sign. (§5.68.170(F).)
Spacing	--	<u>Residential Use Areas</u> : 400 feet between motorized food wagons.	Prohibited within 400 feet of any other food vending vehicle. (§5.68.170(E).)
Private Property			
Hours	<p>--</p> <p>April-October: 5am-8pm November-March: 5am-6pm (§5.68.110(B)(1)-(2).)</p> <p>Operation allowed anytime on nonresidential property, with permission, to serve nearby businesses. (§5.68.110(C).)</p>	--	Determined by zoning. See below.

<p>Zoning</p>	<p>--</p>	<p>Must be located in an industrial zoning district, unless by temporary activity permit. "Notwithstanding the above, nothing shall prohibit the temporary use of a motorized food wagon on commercial property." (§16-365.020(B)(4)(a)(2).)</p>	<p>Prohibited in any zoning district except for Commercial, Hospital, Heavy Commercial and Industrial. (§5.68.140(A).)</p> <p><u>Commercial or Hospital Zoning Districts: Apr.-Oct.: 5am-8pm.</u></p> <p><u>Nov.-Mar.: 5am-6pm. 30 minutes; not within 400 feet of previous location on same day. (§5.68.220.)</u></p> <p><u>Heavy Commercial or Industrial Zoning Districts where property is within 400 feet of a residence: Same as Commercial or Hospital Zoning Districts, above. (§5.68.210.)</u></p> <p><u>Heavy Commercial or Industrial Zoning Districts where property is at least 400 feet away from a residence: Business on property must be open. (§5.68.210.)</u></p>
<p>Primary Use</p>	<p>--</p>	<p>Shall not be the primary use of the parcel; it must be incidental to a primary use with a valid business license. (§16-365.020(B)(4)(a)(1).)</p>	<p>Shall not be the primary use of the parcel; it must be incidental to a primary use that complies with the zoning code. (§5.68.190(A)(2).)</p>

Vacant Parcel	--		Shall not be located on a vacant parcel. (§16-365.020(B)(4)(a)(3).)	Shall not be located on a vacant parcel. (§5.68.190(A)(1).)
Pavement	--		Must be located on pavement per City standards. (§16-365.020(B)(4)(a)(4).)	Must be paved with concrete, asphalt, or other similar material. (§5.68.190(A)(4).)
Interference	--		Shall not interfere with access, driveways, aisles, or circulation, and shall not operate in a place where the operation will create a traffic hazard. (§16-365.020(B)(4)(a)(6).)	Shall not interfere with access, driveways, aisles, or circulation of vehicles or pedestrians on the parcel. (§5.68.190(A)(3).)
Consent	--		--	Must have the express consent of the property owner provided to the Director. (§5.68.180.)
Parking Facilities				
Parking Facilities - generally	Parking facilities shall be used for automobile parking only. No sales, storage, repair work, dismantling, or servicing of any kind shall be permitted. (§17.64.030.)		--	Operation of food vending vehicles allowed on parking facilities. (§5.68.190(B).)
Stand Alone Parking Facilities	Parking facilities shall be used for automobile parking only. [see above] (§17.64.030.)		Shall not be permitted as an accessory use to a stand-alone parking lot. (§16-365.020(B)(4)(a)(1).)	Shall not be operated in a stand-alone parking facility. (§5.68.240.)
Parking Spaces	--		Shall not utilize or be located on parking spaces required for the primary use. At least two parking spaces shall be provided for the motorized food wagon operation. (§16-365.020(B)(4)(a)(5).)	Shall not occupy or block any parking spaces required for the primary use. (§5.68.190(B)(1).)

Other Special Locations			
Schools, playgrounds, parks, etc.	Prohibited within 350 feet of any school building, school ground, playground, recreation park, or public park, or the Memorial Auditorium. (§5.88.010(B).)	Prohibited within 300 feet from any school grounds, park, playground, or City operated recreation center. (§7-049.5(A)(1).)	Prohibited within 350 feet of any school building, school ground, playground, recreation park, or public park, or the Memorial Auditorium. (§5.88.010(B).)
Central Business District	Prohibited, except between 7am and 2pm at active construction sites. (§5.88.010(A); §5.88.030(A)(3).)	--	Prohibited, except between 7am and 2pm at active construction sites. (§5.88.010(A); §5.88.030(A)(3).)
Construction Sites	--	--	Operation allowed on active construction sites during hours of construction and for the purpose of vending to construction workers. (§5.68.230.)
Vehicle			
Permit Posting	Permit shall be in passenger compartment, and decal displayed in the vehicle window. (§5.68.050(A); §5.68.110(B)(3).)	Current permits and licenses shall be displayed in plain view. (§7-049.8(A).)	Permit shall be maintained with the vehicle, and decal displayed in the vehicle window. (§5.68.050(A); §5.68.020(B).)

Signs	On each side of the vehicle, a sign with name, business address, and telephone number. Letters not less than 2.5 inches tall and in contrasting color. (§5.68.050(B).)	--	H&S Code §114299: Business name or name of operator, city, state, ZIP code, and shall be legible, clearly visible to patrons, and permanently affixed on two sides of the mobile food facility. The name shall be in letters at least 3 inches high and in a contrasting color. Letters and numbers for the city, state, and ZIP Code shall not be less than one inch high.
Vehicle Number	--	--	Food vending vehicle number must be permanently posted on the exterior and in numbers that are not less than 3.5 inches in height. (§5.68.050(B).)
Sound	Cannot be heard more than 5 feet from the vehicle unless licensed. (§5.68.110(B)(7); §10.60.020.)	--	Cannot be heard more than 5 feet from the vehicle unless licensed. (§10.60.020)
Utilities	--	The motorized food wagon shall be entirely self sufficient in regards to gas, water, and telecommunications. Should any utility hookups 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 the consistency with applicable building codes. (§7-049.8(B).)	No person shall operate a food vending vehicle while the vehicle is connected to an external source of power, water or any other utilities. (§5.168.150.)

<p>Trash Cans</p>	<p>--</p>	<p>Shall be equipped with refuse containers. (§7-049.11(B).)</p>	<p>H&S Code §114244: (a) Each food facility shall be provided with any facilities and equipment necessary to store or dispose of all waste material. (b) Waste receptacles shall be provided for use by consumers. (c) A receptacle shall be provided in each area of the food facility or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.</p>
<p>Commissary</p>	<p>--</p>	<p>Shall operate out of a commissary (§7-049.11(A).)</p>	<p>H&S Code §114295: Mobile food facilities shall operate with an approved commissary, mobile support unit, or other facility. Mobile food facilities shall be stored at commissary.</p>
<p>Site</p>			

Condition	--	<p>Site shall be maintained in a safe and clean manner at all times. (§7-049.9.)</p> <p>Operator shall pickup all refuse generated within 25 foot radius before vehicle is moved. (§7-049.11(B).)</p> <p>Exterior storage of refuse, equipment, or materials associated with the wagon is prohibited. (§7-049.9.)</p>	<p>H&S Code §114257.1: The premises of a food facility shall be free of litter and items that are unnecessary to the operation or maintenance of the facility, such as equipment that is nonfunctional or no longer used.</p>
Furniture	--	<p>No tables, chairs, fences, shade structures or other site furniture or any free standing signs. (§7-049.9.)</p>	<p>No vendor may place any free-standing signs, tables, chairs, fences, shade structures, or other furniture on or near the site of the operation of the food vending vehicle. (§5.68.160.)</p>
Sanitation			
Trash Disposal	--	<p>No vendor shall dispose of any trash in any public trash receptacle that is not owned by the vendor. (§7-049.11(B).)</p>	<p>It is unlawful for any person in the city to throw, deposit, store or keep any putrescible waste, garbage, junk, debris, refuse, swill, rubbish or waste matter in any container except in any private receptacle not belonging to such person. (§13.10.200.)</p>

Discharge	--	The vendor shall not discharge items onto the sidewalk, gutter, storm inlets, or streets. (§7-049.8(C).)	It is unlawful for any person in the city to throw or deposit any putrescible waste, garbage, junk, debris, refuse, swill, rubbish or waste matter upon any street, alley, gutter, park or other public way or upon any premises or vacant lot, whether public or private property, except as otherwise specifically provided. (§13.10.200.)
Toilets	--	Shall comply with H&S Code requirements requiring toilet facilities. (§7-049.11(A).)	H&S Code §114315: Mobile food facilities shall be operated within 200 feet travel distance of approved and readily available toilet and handwashing facilities whenever the mobile food facility is stopped to conduct business for more than a one-hour period.
Safety & Security			
Lighting	--	The vendor shall install adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties. (§7.049.10.)	No vendor may sell any product from a food vending vehicle unless the site is adequately lit to ensure customer safety. (§5.68.140.)

<p>Vehicle Safety</p>	<p>--</p>	<p>No vending except after vehicle is completely stopped and lawfully parked. (§7-049.12(A).)</p>	<p>No vending except after vehicle is completely stopped and lawfully parked. (§5.68.180(C).) Veh. Code § 22455: The driver of any commercial vehicle engaged in vending upon a street may vend products on a street in a residence district only after bringing the vehicle to a complete stop and lawfully parked adjacent to the curb,</p>
<p>Loitering</p>	<p>--</p>	<p>Install sign that indicates that no loitering is permitted and customers may only stay on the lot up to 15 minutes after receiving food. Enforce the loitering rule. (§7-049.12(B)-(C).)</p>	<p>--</p>
<p>Penalty</p>			
<p>Penalty</p>	<p>Any person violating any of the provisions, or failing to comply with any of the requirements of this code shall be guilty of a misdemeanor, except where it has been provided by state law or this code that the violator shall be guilty of an infraction. (§1.28.020(A).)</p>	<p>Misdemeanor, unless prosecutor files it as an infraction. (§7-049.14.)</p>	<p>Any violation is a misdemeanor; the City may also impose administrative penalties; and may seek injunctive relief and civil penalties. (§5.68.260.)</p>
<p>Exemption</p>			

<p>Exemption</p>	<p>--</p>	<p>--</p>	<p>Permittees with established operations on private property are exempt from zoning regulations in bold above, subject to the following conditions: exemption is limited to properties and permit specified in the written consent, limited for so long as the consent and the permits are maintained as valid; and operation must be limited to between 5:00 am and 2:00 am the next day.</p>
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Attachment 4

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING CHAPTER 5.68
OF THE SACRAMENTO CITY CODE RELATING
TO FOOD VENDING VEHICLES AND SECTION
5.88.030 OF THE SACRAMENTO CITY CODE
RELATING TO STREET AND SIDEWALK SALES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council hereby declares and finds that:

- A. The operation of food vending vehicles provides convenient food and beverage service to people in the City of Sacramento at locations where such service may otherwise be unavailable.
- B. Ensuring that food vending vehicles are operated safely benefits the health, safety and welfare of all residents of the City of Sacramento.
- C. Regulating the location and hours of operation of food vending vehicles also benefits the health, safety and welfare of City residents because the operation of food vending vehicles at inappropriate hours, at inappropriate locations, or in any one location for prolonged periods of time creates traffic hazards, the blockage of adjacent sidewalks to pedestrians, and unwanted noise, littering and loitering at that location.
- D. The regulation of food vending vehicles on private property is also consistent with the City's interests in the aesthetics of the community and in promoting permanent development on private property.
- E. In enforcing the provisions of this ordinance, City law enforcement will work in cooperation with the County of Sacramento.

SECTION 2.

Chapter 5.68 of the Sacramento City Code is hereby amended to read as follows:

Chapter 5.68 FOOD VENDING VEHICLES

5.68.010 Definitions.

“Commercial and Hospital Zoning Districts” means OB, EC, SC, C-1, C-2, C-3, and H zoning districts as established pursuant to Title 17 of this code.

“Director” means the City’s Director of Finance, or his or her designee.

“Food vending vehicle” includes any motor vehicle from which any type of food or beverage is sold or offered for sale directly to any consumer; provided, however, that “food vending vehicle” shall not include a vehicle that only delivers food or beverage products ordered by home delivery customers.

“Heavy Commercial and Industrial Zoning Districts” means C-4, M-1, M-1S, M-2, M-2, MRD, and MIP zoning districts as established pursuant to Title 17 of this code.

“Operate a food vending vehicle” means to drive, occupy, or otherwise use a food vending vehicle, to sell, offer to sell, or display for sale, any type of food or beverage.

“Residential or Open Space Zoning Districts” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, RMX, RO, AOS, F, and ARP-F zoning districts as established pursuant to Title 17 of this code.

“Vendor” means any person who operates a food vending vehicle.

5.68.020 Food vending vehicle permit required.

A. It is unlawful for any person to operate a food vending vehicle unless a food vending vehicle permit issued pursuant to this chapter is in effect for that food vending vehicle.

B. Every permittee, upon receipt of a food vending vehicle permit, shall maintain the permit with the vehicle for which it is issued, at all times the food vending vehicle is being operated.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present the food vending

vehicle permit that is in effect for that vehicle.

D. All food vending vehicle permits are the property of the city and each shall authorize the operation of a single specific food vending vehicle. It is unlawful for any person to sell or transfer, or attempt to sell or transfer, any food vending vehicle permit.

5.68.030 Vehicle permit application.

A. An application for a food vending vehicle permit shall be filed with the director and shall contain the following:

1. The individual and business name, address, and telephone number of the permit applicant;

2. Written evidence that the applicant is an owner, lessee or holder of a similar interest in the food vending vehicle;

3. The name and address of all legal and registered owner(s) of the food vending vehicle, and each person with a financial interest in the business that operates the food vending vehicle;

4. A copy of a valid business operations tax certificate issued pursuant to Chapter 3.08 of this code.

5. The state vehicle license plate number and the vehicle identification number of the food vending vehicle;

6. Proof of compliance with the insurance requirements set forth in Section 5.68.060 of this chapter;

7. Proof that the vehicle is in compliance with applicable requirements of the State of California and the County of Sacramento regarding the operation of a food vending vehicle;

8. The address where the food vending vehicle is stored when not in use;

9. For each person with a 10 percent or greater financial interest in the business that operates the food vending vehicle, a list, signed under penalty of perjury, of each conviction of such person and whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the person was convicted. A person who acquires a 10 percent or greater financial interest in the business that operates the food vending vehicle during the life of the permit issued pursuant to this chapter shall immediately so notify the director and comply with this subsection. Any holder of a valid food vending vehicle driver permit issued pursuant to Section 5.68.100 of this chapter shall be exempt from the requirements of this subsection;

10. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a food vending vehicle permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. It is unlawful for any person to knowingly make a false statement of fact or knowingly omit any information that is required in an application for a food vending vehicle permit.

5.68.040 Vehicle permit issuance and denial.

A. Except as provided in subsection (C) of this section, a food vending vehicle permit shall be issued by the director upon receipt of a complete application and payment of the permit fee, as specified in Section 5.68.030 of this chapter, and after the director has:

1. Physically inspected the food vending vehicle to ensure compliance with this code and the vehicle code equipment requirements; provided, however, that the director may accept proof of compliance with State of California or Sacramento County inspection requirements for operating a food vending vehicle in lieu of conducting an inspection; and

2. Determined that the business location and vehicle storage location, if within the city, comply with applicable zoning regulations and other codes.

B. All food vending vehicle permits shall expire on April 30th of the calendar year following the date of issuance unless sooner revoked. Application for renewal shall be filed between March 1st and March 31st for the permit period beginning the succeeding May 1st.

C. A food vending vehicle permit may be denied by the director if he or she finds any of the following grounds:

1. The information submitted pursuant to Section 5.68.030 of this chapter is materially false or incomplete.

2. The applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has any unpaid administrative penalties imposed pursuant to Chapter 1.28 of this code.

3. Within 12 months of the date of application, the applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has had his or her food vending vehicle permit

revoked.

4. The applicant has not paid the applicable business operations tax pursuant to Chapter 3.08 of this code.

5. A person with 10 percent or greater financial interest in the operation of the food vending vehicle has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under Penal Code Section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or having the effect of substantially injuring another.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection (C)(5) only if the director finds that the crime or act is substantially related to the qualifications, functions or duties of a food vending vehicle owner or owner of a business which operates food vending vehicles or has substantial contact with minors. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under the State Penal Code Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under Penal Code Section 4852.01, et seq.

5.68.050 Posting requirements.

A. No person shall operate a food vending vehicle unless the food vending vehicle permit decal, as provided by the director, is displayed on the vehicle window in a manner specified by the director.

B. No person shall operate a food vending vehicle unless the food vending vehicle number, as provided by the director, is permanently posted on the exterior of the vehicle and in a location that is clearly visible to patrons. The numbers shall be legible, not less than three and one-half inches in height and in a color that contrasts with the color of the background upon which it is placed.

5.68.060 Liability insurance.

A. During the term of a food vending vehicle permit issued pursuant to this chapter, the permittee or owner(s) of a food vending vehicle authorized by the permit shall maintain in full force and effect at no cost to the city a comprehensive auto and general liability insurance policy:

1. In an amount not less than one million dollars (\$1,000,000.00) single limit per occurrence; and

2. Issued by an admitted insurer or insurers as defined by the California

Insurance Code; and

3. Providing that the city, its officers, employees and agents are to be named as additional insured under the policy; and

4. Covering all losses and damages as specified in Section 5.68.070 of this chapter; and

5. Stipulating that the policy will operate as primary insurance and that no other insurance effected by the city or other named insured will be called on to contribute to a loss covered thereunder; and

6. Providing that no cancellation, change in coverage or expiration by the insurance company or the insured shall occur during the term of the food vending vehicle permit, without 30 days written notice to the director prior to the effective date of such cancellation or change in coverage.

B. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with subsection (A) of this section, the permittee shall notify the city of the cancellation, expiration, or change within three business days after its effective date by submitting a written notice to the director. The giving of notice as provided herein shall not stay the automatic suspension of the permit pursuant to Section 5.68.110 of this chapter.

C. It is unlawful for any person to operate a food vending vehicle without insurance coverage in effect as required by this section.

5.68.070 Indemnify and hold harmless.

The permittee and food vending vehicle owner(s) shall defend, indemnify and hold harmless the city, its officers, employees and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including but not limited to attorney fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permittee or the permittee's agents, officers or employees, directly or indirectly arising from the operation of the food vending vehicle.

5.68.080 Food vending vehicle driver permit required.

A. It is unlawful for any person to drive a food vending vehicle unless the person holds a valid food vending vehicle driver permit issued pursuant to this chapter.

B. Every driver of a food vending vehicle shall have the valid food vending vehicle driver permit issued to him or her in his or her immediate possession at all times when driving a food vending vehicle.

C. Upon demand of a peace officer, or city employee authorized to enforce this chapter, the driver of a food vending vehicle shall present his or her food vending vehicle driver permit for examination.

D. All food vending vehicle driver permits are the property of the city and each shall authorize a single specific food vending vehicle driver. It is unlawful for any person to sell or transfer, or attempt to sell or transfer, any food vending vehicle driver permit.

5.68.090 Food vending vehicle driver permit procedure.

A. Applications for a food vending vehicle driver permit shall be filed with the director and shall contain the following:

1. The name and address of the applicant;
2. The number of a valid state driver license issued to the applicant, authorizing the applicant to drive a food vending vehicle, and date of license expiration;
3. A statement of whether the applicant's state driver license has ever been revoked or suspended and, if so, the reason(s) for such revocation or suspension;
4. A list, signed under penalty of perjury, of each conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which applicant was convicted;
5. A list of the applicant's physical or mental conditions, or any medications being taken, that would interfere with the proper management and control of a motor vehicle;
6. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a food vending vehicle driver permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. It is unlawful for any person to knowingly make a false statement of fact or knowingly omit any information that is required in an application for a food vending vehicle driver permit.

5.68.100 Driver permit issuance and denial.

A. Except as provided in subsection (C) of this section, a food vending vehicle driver permit shall be issued by the director:

1. Upon receipt of a complete application and payment of the permit fee, as specified in Section 5.68.090 of this chapter; and
 2. After fingerprinting of the applicant by the police department, if the director so requires; and
 3. After submission of four recent dated portrait photographs, one to be attached to the application, one to be attached to the driver permit if issued, and two for the use of the police department.
- B. All permits shall expire on April 30th of the calendar year following the date of issuance unless sooner revoked. Application for renewal shall be submitted between March 1st and March 31st for the year beginning the succeeding May 1st.
- C. A food vending vehicle driver permit shall be denied by the director if he or she finds any of the following grounds:
1. The applicant failed to comply with the requirements of this section;
 2. The information submitted pursuant to Section 5.68.090 of this chapter is materially false or incomplete;
 3. The applicant has any unpaid administrative penalties imposed pursuant to Chapter 1.28 of this code.
 4. Within 12 months of the date of application, the applicant has had his or her food vending vehicle driver permit revoked.
 5. The applicant has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under Penal Code Section 1203.4; or has committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or has a physical or mental disability or incapacity, or takes medication, uses alcohol or any controlled substance as defined in the state's Health and Safety Code.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection (C)(5) only if the director finds the crime, act, disability, incapacity or impairment from a substance consumed is substantially related to the qualifications, functions or duties of a food vending vehicle driver. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under State Penal Code Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under Penal Code Section 4852.01, et seq.

5.68.110 Suspension or revocation of permit.

A. The Director may suspend or revoke any food vending vehicle permit or any food vending vehicle driver permit issued hereunder on the basis of any of the following grounds:

1. The director determines that any activity authorized by the permit is being carried out in such a manner as to constitute a nuisance, or to be injurious to the public health, safety or welfare; or

2. The operation of the food vending vehicle is in violation of any conditions imposed upon the permit or in violation of any provision of this chapter, this code. Sacramento County Code or state law, including, but not limited to:

a. Chapter 5.68 of this code regarding food vending vehicles,

b. Chapter 5.88 of this code regarding outdoor vending,

c. Chapter 10.60 of this code regarding the broadcasting of sound, or

d. The California Retail Food Code (commencing with Health and Safety Code §113700); or

3. There exists any of the grounds that would have been grounds for denial of the permit application.

B. Except as provided in subsection (C) of this section, no permit shall be suspended or revoked until a hearing is held by the director. Written notice of the time and place of such hearing shall be given at least five days prior to the date set for such hearing to the person to whom the permit was granted and to any other person who, at least 10 days prior to the hearing, requests such notice. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the persons to be notified, or by depositing the notice in the U.S. mail in a sealed envelope, postage prepaid, addressed to the persons to be notified at the address appearing in the application for a permit.

C. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with section 5.68.060 of this chapter, the food vending vehicle permit issued pursuant to this chapter shall be automatically suspended, effective on the effective date of the cancellation, expiration, or change in coverage. The suspension shall continue until required insurance coverage is reinstated and the city receives written notice from the insurer indicating compliance with the requirements of Section 5.68.060 of this chapter, or until the permit expires.

D. Upon the director's suspension or revocation of any permit pursuant to this

section, the permittee shall surrender the subject permit to the City within 10 days.

5.68.120 Appeal of action on permit

A. An applicant may appeal the director’s decision to deny their application submitted pursuant to this chapter, and a permittee may appeal the director’s decision to suspend or revoke their permit issued pursuant to this chapter, to the city council in accordance with chapter 1.24 of this code.

B. A notice of appeal, accompanied by an appeal fee in an amount set by resolution of the city council, must be filed within 10 days after the date of the director’s decision.

5.68.130 Stopping

No person may sell any product from a food vending vehicle unless the vehicle has been brought to a complete stop and is parked in a lawful manner.

5.68.140 Lighting

No vendor may sell any product from a food vending vehicle unless the site is adequately lit to ensure customer safety. Any lighting maintained by the vendor shall be directed downwards and away from public streets and adjacent properties.

5.68.150 Utilities

No person may operate a food vending vehicle while the vehicle is connected to an external source of power, water or any other utilities;

5.68.160 Signs and furniture

No vendor may place any free-standing signs, tables, chairs, fences, shade structures, or other furniture on or near the site of the operation of the food vending vehicle.

5.68.170 Operation on the public right-of-way

It is unlawful for any person to operate a food vending vehicle while stopped, standing or parked on the public right-of-way:

A. Between the hours of 8:00 p.m. of one day and 5:00 a.m. of the following day during the months of April, May, June, July, August, September and October;

B. Between the hours of 6:00 p.m. of one day and 5:00 a.m. of the following day during the months of November, December, January, February and March.

- C. For more than 30 minutes in one location, without moving to a new location at least 400 feet away;
- D. Within 400 feet of a location where the same food vending vehicle previously operated, on the same calendar day;
- E. Within 400 feet of any other food vending vehicle; or
- F. Within 100 feet of any street intersection controlled by a traffic light or stop sign.

5.68.180 Operation on private property - consent

- A. It is unlawful for any person to operate a food vending vehicle on private property without the express written consent of the owner of the property.
- B. Prior to vending on private property, the written consent of the owner of the property shall be provided to the Director, in the form approved by the Director.
- C. A copy of the written consent shall be maintained with the corresponding food vending vehicle at all times the vehicle is being operated on private property.
- D. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle on private property shall present a copy of the written consent that is in effect for that vehicle.

5.68.190 Operation on private property - generally

- A. It is unlawful for any person to operate a food vending vehicle on private property if any of the following conditions apply:
 - 1. The property is vacant;
 - 2. The operation of a food vending vehicle is the primary use of the parcel. The operation of a food vending vehicle must be incidental to a primary use that complies with the zoning code;
 - 3. The food vending vehicle is stopped, standing or parked in any location on the property that interferes with access, driveways, aisles, or the circulation of vehicles or pedestrians;
 - 4. The food vending vehicle is stopped, standing or parked on any surface that is not paved with concrete, asphalt or other similar material: or
 - 5. Another food vending vehicle is already operating on the property.

B. Notwithstanding subsection (A) of Section 17.64.030 of this code, the operation of food vending vehicles shall be allowed on parking facilities, subject to the following restrictions:

1. The food vending vehicle shall not occupy or block any parking spaces required for the primary use of the parcel as determined pursuant to Chapter 17.60 of this code; and

2. The operation of the food vending vehicle shall comply with all other provisions of this code.

5.68.200 Operation on private property – zoning districts

It is unlawful for any person to operate a food vending vehicle on private property in any zoning district other than a Heavy Commercial and Industrial Zoning District, or a Commercial and Hospital Zoning District, in accordance with Sections 5.68.210 and 5.68.220 of this code.

5.68.210 Private property - Heavy Commercial and Industrial Zoning Districts

A. It is unlawful for any person to operate a food vending vehicle on private property in a Heavy Commercial and Industrial Zoning District that is at least 400 feet away from any residence, during the hours that the business located on that property is closed.

B. The operation of a food vending vehicle on private property in a Heavy Commercial and Industrial Zoning District that is within 400 feet of any residence shall be subject to the same regulations as the operation of a food vending vehicle on private property in a Commercial or Hospital Zoning District, as set forth in Section 5.68.220 of this code.

5.68.220 Private property - Commercial or Hospital Zoning Districts

It is unlawful for any person to operate a food vending vehicle on private property in a Commercial or Hospital Zoning District:

A. Between the hours of 8:00 p.m. of one day and 5:00 a.m. of the following day during the months of April, May, June, July, August, September and October; or

B. Between the hours of 6:00 p.m. of one day and 5:00 a.m. of the following day during the months of November, December, January, February and March.

C. For more than 30 minutes in one location, without moving to a new location at least 400 feet away; or

D. Within 400 feet of a location where the same food vending vehicle previously operated, on the same calendar day.

5.68.230 Private property – construction sites

Notwithstanding the provisions of Sections 5.68.200 through 5.68.220, a person may operate a food vending vehicle on any private property upon which any building or structure is being constructed, demolished, altered or repaired, during the hours that such activity is taking place, and for the purpose of selling food and beverages to those persons engaging in such activity.

5.68.240 Private property – stand-alone parking facilities

Notwithstanding any other provision of this code to the contrary, food vending vehicles shall not be operated in a stand-alone parking facility as described in subsection (G) of Section 17.64.010 of this code.

5.68.250 Exemption of established operations on private property

A. The operation of a food vending vehicle on private property shall be exempt from Sections 5.68.210, 5.68.220 and Chapter 17.88 of this code until January 1, 2013, if the food vending vehicle permittee has an established operation on private property.

B. A food vending vehicle permittee shall be deemed to have an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee's food vending vehicle has operated on a private property with the continuous consent of the property owner since at least January 1, 2006.

C. The exemption in the above subsection (A) is subject to the following conditions:

1. The exemption applies only to the specific private property that the director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection (B) of this section;

2. The exemption applies only as long as the consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;

3. The exemption applies only as long as the food vending vehicle permit to which it is related, is continuously maintained as valid. If the food vending vehicle

permit is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a food vending vehicle driver permit is subsequently obtained;

4. A person may only operate a food vending vehicle in accordance with this exemption between the hours of 5:00 a.m. of one day, and 2:00 a.m. of the following day; and

5. Except as set forth in subdivision A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code.

5.68.260 Penalty

Any person who violates the provisions of this chapter shall be guilty of a misdemeanor. In addition, the city may also impose administrative penalties pursuant to Chapter 1.28 of this code and seek injunctive relief and civil penalties in the superior court for violations of this chapter. The remedies provided for in this chapter shall be cumulative and not exclusive of any other remedies available under any other federal, state or local laws.

SECTION 3.

Section 5.88.030 of the Sacramento City Code is hereby amended to read as follows:

5.88.030 Certain sales permitted.

A. It is unlawful for any person to sell, expose for sale, or offer for sale any goods, wares, merchandise, or food of any kind or description for which a price is asked, and the article delivered, from the public sidewalks, streets or alleys in the central business district, except the following:

1. The sale, dissemination and distribution of newspapers and religious and educational periodicals;

2. The sale of novelties and food during parades held in the central business district, provided such sales are made only along the designated parade route;

3. The sale of food, including the operation of food vending vehicles in accordance with chapter 5.68 of this code, between the hours of seven a.m. and two p.m. at construction sites in the central business district upon which construction activity is taking place;

4. The sale of food or flowers on public sidewalks pursuant to Article III of this chapter, provided the vendor complies with all applicable laws, including, but not limited to, traffic and parking laws, health laws, and the provisions of Sections 5.88.080 through 5.88.180 of this chapter;

5. The sale, exposing for sale, and offering for sale any goods, wares, merchandise, or food from any public sidewalk, street, or alley or portion thereof, that is the subject of an operations agreement between the city and the Sacramento Regional Transit District for the operation of a light rail station, when undertaken pursuant to a license issued by the Sacramento Regional Transit District.

B. No person shall park a vehicle, car or similar device on a street or alley in the central business district for purposes of selling food or flowers, except that a vehicle can be parked on a street or alley for the purpose specified in subsection (A) (3) of this section.

C. This chapter shall not supersede the provisions of Chapter 12.44 of this code relating to pedestrian mall regulations.

D. In those instances in this chapter where the sidewalk is permitted to be used for commercial purposes, a space on the sidewalk at least six feet in width shall at all times be kept clear for the accommodation of pedestrians.

E. It is unlawful for any person to sell, expose for sale, or offer for sale any goods, wares, merchandise or food of any kind or description for which a price is asked, and the article delivered, from the public sidewalks, streets or alleys outside the central business district, except the following:

1. The sale, dissemination and distribution of newspapers and religious and educational periodicals;

2. The operation of food vending vehicles in accordance with chapter 5.68 of this code;

3. The sale, exposing for sale, and offering for sale any goods, wares, merchandise, or food from any public sidewalk, street, or alley or portion thereof, that is the subject of an operations agreement between the city and the Sacramento Regional Transit District for the operation of a light rail station, when undertaken pursuant to a license issued by the Sacramento Regional Transit District.

F. The operation of food vending vehicles that is allowed by this article may be undertaken only in compliance with Chapter 5.68 of this code.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

MAYOR

Attest:

City Clerk

Passed for Publication:
Published:
Effective:

Attachment 5

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING CHAPTER 5.68
OF THE SACRAMENTO CITY CODE RELATING
TO FOOD VENDING VEHICLES AND SECTION
5.88.030 OF THE SACRAMENTO CITY CODE
RELATING TO STREET AND SIDEWALK SALES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council hereby declares and finds that:

- A. The operation of food vending vehicles provides convenient food and beverage service to people in the City of Sacramento at locations where such service may otherwise be unavailable.
- B. Ensuring that food vending vehicles are operated safely benefits the health, safety and welfare of all residents of the City of Sacramento.
- C. Regulating the location and hours of operation of food vending vehicles also benefits the health, safety and welfare of City residents because the operation of food vending vehicles at inappropriate hours, at inappropriate locations, or in any one location for prolonged periods of time creates traffic hazards, the blockage of adjacent sidewalks to pedestrians, and unwanted noise, littering and loitering at that location.
- D. The regulation of food vending vehicles on private property is also consistent with the City's interests in the aesthetics of the community and in promoting permanent development on private property.
- E. In enforcing the provisions of this ordinance, City law enforcement will work in cooperation with the County of Sacramento.

SECTION 2.

Chapter 5.68 of the Sacramento City Code is hereby amended to read as follows:

Chapter 5.68 FOOD VENDING VEHICLES

5.68.010 ~~Food vending vehicle defined~~ Definitions.

“Commercial and Hospital Zoning Districts” means OB, EC, SC, C-1, C-2, C-3, and H zoning districts as established pursuant to Title 17 of this code.

“Director” means the City’s Director of Finance, or his or her designee.

“Food vending vehicle” includes any motor vehicle from which any type of food or beverage is sold or offered for sale directly to any consumer; provided, however, that “food vending vehicle” shall not include ~~any such a vehicle which~~ that only delivers fluid milk food or beverage products to ordered by home delivery customers.

“Heavy Commercial and Industrial Zoning Districts” means C-4, M-1, M-1S, M-2, M-2, MRD, and MIP zoning districts as established pursuant to Title 17 of this code.

“Operate a food vending vehicle” means to drive, occupy, or otherwise use a food vending vehicle, to sell, offer to sell, or display for sale, any type of food or beverage.

“Residential or Open Space Zoning Districts” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, RMX, RO, AOS, F, and ARP-F zoning districts as established pursuant to Title 17 of this code.

“Vendor” means any person who operates a food vending vehicle.

5.68.020 Food vending vehicle permit required.

A. It is unlawful for any person to engage in the business of operating operate a food vending vehicle without first obtaining unless a food vending vehicle permit issued pursuant to this chapter is in effect for each that food vending vehicle as required by this chapter.

B. Every permittee, upon receipt of a food vending vehicle permit, shall maintain the permit with the vehicle for which it is issued, at all times the food vending vehicle is being operated.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present the food vending vehicle permit that is in effect for that vehicle.

D. All food vending vehicle permits are the property of the city and each shall authorize the operation of a single specific food vending vehicle. It is unlawful for any person to sell or transfer, or attempt to sell or transfer, any food vending vehicle permit.

5.68.030 Vehicle permit application.

A. An Application for a food vending vehicle permit shall be filed with the director and shall contain the following:

A1. The individual and business name, address, and telephone number of the permit applicant;

B2. Written evidence that the applicant is an owner, lessee or holder of a similar interest in the food vending vehicle;

C3. The name and address of all legal and registered owner(s) of the food vending vehicle, and each person with a financial interest in the business ~~which~~ that operates the food vending vehicle;

4. A copy of a valid business operations tax certificate issued pursuant to Chapter 3.08 of this code.

D5. The state vehicle license plate number and the vehicle identification number of the food vending vehicle;

E6. A ~~City certificate of insurance, establishing Proof of compliance with the insurance requirements set forth in~~ Section 5.68.060 of this chapter;

F7. A ~~certificate from the Sacramento County health department establishing that the vehicle complies with all regulations relating to sale of food from a motorized vehicle~~ Proof that the vehicle is in compliance with applicable requirements of the State of California and the County of Sacramento regarding the operation of a food vending vehicle;

G8. The address where the food vending vehicle is stored when not in use;

H9. For each person with a ~~ten~~ (10) percent or greater financial interest in the business ~~which~~ that operates the food vending vehicle, a list, signed under penalty of perjury, of each conviction of such person and whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the person was convicted. A person who acquires a ~~ten~~ (10) percent or greater financial interest in the

business ~~which~~ that operates the food vending vehicle during the life of the permit issued pursuant to this chapter shall immediately so notify the director and comply with this subsection. Any holder of a valid food vending vehicle driver permit issued pursuant to Section 5.68.100 of this chapter shall be exempt from the requirements of this subsection;

~~_____ I. _____ An annual nonproratable, nonrefundable permit fee, as established by resolution of the city council;~~

J10. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a food vending vehicle permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. It is unlawful for any person to knowingly make a false statement of fact or knowingly omit any information that is required in an application for a food vending vehicle permit.

5.68.040 Vehicle permit issuance and denial.

A. Except as provided in subsection (C) of this section, A food vending vehicle permit shall be issued by the director upon receipt of a complete application and payment of the permit fee, as specified in Section 5.68.030 of this chapter, and after the director has:

1. Physically inspected the food vending vehicle to ensure compliance with this code and the vehicle code equipment requirements; or provided, however, that the director may accept proof of a valid current compliance with State of California or Sacramento County special business license inspection requirements for operating a mobile food vending vehicle in lieu of conducting an inspection; and

2. Determined that the business location and vehicle storage location, if within the city, comply with applicable zoning regulations and other codes.

B. All food vending vehicle permits shall expire on April 30th, of the calendar year following the date of issuance unless sooner revoked. Application for renewal shall be filed between March 1st and March 31st for the permit period beginning the succeeding May 1st.

~~_____ C. _____ A food vending vehicle permit shall authorize the operation of a single food vending vehicle and shall not be transferable to any other vehicle.~~

DC. _A food vending vehicle permit shall may be denied by the director if he or she finds any of the following grounds:

~~1. The applicant knowingly made a false statement of fact required to be revealed in the permit application.~~

21. The information required by submitted pursuant to Section 5.68.030 of this chapter is materially false or incomplete.

2. The applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has any unpaid administrative penalties imposed pursuant to Chapter 1.28 of this code.

3. Within 12 months of the date of application, the applicant, any registered owner of the food vending vehicle, or any person with a financial interest in the business that operates the food vending vehicle, has had his or her food vending vehicle permit revoked.

4. The applicant has not paid the applicable business operations tax pursuant to Chapter 3.08 of this code.

35. A person with ten (10) percent or more greater financial interest in the operation of the food vending vehicle has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under Penal Code Section 1203.4; or has done committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or having the effect of substantially injuring another.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection (~~DC~~)(35) only if, ~~in the opinion of the chief of police, contained in a recommendation to the director,~~ the director finds that the crime or act is substantially related to the qualifications, functions or duties of a food vending vehicle owner or owner of a business which operates food vending vehicles or has substantial contact with minors. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under the State Penal Code Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering a petition under Penal Code Section 4852.01, et seq.

5.68.050 Posting requirements.

A. ~~There shall be carried in the food vending vehicle passenger compartment for viewing upon request of any person a copy of a valid permit issued pursuant to this chapter, and there shall be~~ No person shall operate a food vending vehicle unless the food vending vehicle permit decal, as provided by the director, is displayed on the vehicle window as in a manner specified by the director such permit decal as the director may provide.

~~_____ B. There shall be displayed on each exterior side of the food vending vehicle a sign showing the name of the company or the owner or operator of the food vending vehicle. The sign shall also contain the business address and telephone number of the owner or driver. The letters of the sign shall be not less than two and one-half inches in height and the lettering shall be in contrast to the color of the background upon which they are placed.~~

_____ B. No person shall operate a food vending vehicle unless the food vending vehicle number, as provided by the director, is permanently posted on the exterior of the vehicle and in a location that is clearly visible to patrons. The numbers shall be legible, not less than three and one-half inches in height and in a color that contrasts with the color of the background upon which it is placed.

5.68.060 Liability insurance.

_____ A. During the term of a food vending vehicle permit issued pursuant to this chapter, the permittee or owner(s) of a food vending vehicle authorized by the permit shall maintain in full force and effect at no cost to the city a comprehensive auto and general liability insurance policy:

_____ A1. In an amount not less than three hundred thousand one million dollars (\$300,000.00 1,000,000.00) single limit per occurrence; and

_____ B2. Issued by an admitted insurer or insurers as defined by the California Insurance Code; and

_____ C3. Providing that the city, its officers, employees and agents are to be named as additional insured under the policy; and

_____ D4. Covering all losses and damages as specified in Section 5.68.070 of this chapter; and

_____ E5. Stipulating that the policy will operate as primary insurance and that no other insurance effected by the city or other named insured will be called on to contribute to a loss covered thereunder; and

_____ F6. Providing that no cancellation, change in coverage or expiration by the insurance company or the insured shall occur during the term of the food vending vehicle permit, without ~~thirty~~ (30) days written notice to the director prior to the effective date of such cancellation or change in coverage.

_____ B. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with subsection (A) of this section, the permittee shall notify the city of the cancellation, expiration, or change within three business days after its

effective date by submitting a written notice to the director. The giving of notice as provided herein shall not stay the automatic suspension of the permit pursuant to Section 5.68.110 of this chapter.

C. It is unlawful for any person to operate a food vending vehicle without insurance coverage in effect as required by this section.

5.68.070 Indemnify and hold harmless.

The permittee and food vending vehicle owner(s) shall ~~assume the defense of defend, and~~ indemnify and hold harmless; the city, its officers, employees and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including but not limited to attorney fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permittee or the permittee’s agents, officers or employees, directly or indirectly arising from the operation of the food vending vehicle.

~~— The foregoing is not intended to and shall not be construed to limit any responsibility or liability that the permittee may be subjected to under other laws.~~

5.68.080 Food vending vehicle driver permit required.

A. It is unlawful for any ~~No person shall engage in the business or employment of driving or selling from,~~ to drive a food vending vehicle unless he or she the person holds a valid food vending vehicle driver permit issued pursuant to this chapter.

B. Every driver of a food vending vehicle shall have the valid food vending vehicle driver permit issued to him or her in his or her immediate possession at all times when driving a food vending vehicle.

C. Upon demand of a peace officer, or city employee authorized to enforce this chapter, the driver of a food vending vehicle shall present his or her food vending vehicle driver permit for examination.

D. All food vending vehicle driver permits are the property of the city and each shall authorize a single specific food vending vehicle driver. It is unlawful for any person to sell or transfer, or attempt to sell or transfer, any food vending vehicle driver permit.

5.68.090 Food vending vehicle driver permit procedure.

A. Applications for a food vending vehicle driver permit shall be filed with the director and shall contain the following:

A1. The name and address of the applicant;

~~B~~2. The number of a valid state driver license issued to the applicant, authorizing the applicant to drive a food vending vehicle, and date of license expiration;

~~C~~3. A statement of whether the applicant's state driver license has ever been revoked or suspended and, if so, the reason(s) for such revocation or suspension;

~~D~~4. A list, signed under penalty of perjury, of each conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which applicant was convicted;

~~E~~5. A list of the applicant's physical or mental conditions, or any medications being taken, that -disabilities or incapacities. ~~With respect to each such disability or incapacity, applicant shall state whether the same would interfere with the proper management and control of a motor vehicle;~~

~~F.~~ A statement as to whether applicant is or ever has been addicted to the use of alcohol or any controlled substance as defined in the state Health and Safety Code;

~~G.~~ A list of all prescription medication which applicant takes on a regular or episodic basis;

~~H.~~ An annual nonproratable, nonrefundable permit fee, as established by resolution of the city council;

~~I~~6. Such other information as may be required by the director to further the purpose of this chapter.

B. Every application for a food vending vehicle driver permit shall be accompanied by a nonproratable, nonrefundable application fee in an amount established by resolution of the city council.

C. It is unlawful for any person to knowingly make a false statement of fact or knowingly omit any information that is required in an application for a food vending vehicle driver permit.

5.68.100 Driver permit issuance and denial.

A. Except as provided in subsection (C) of this section, a food vending vehicle driver permit shall be issued by the director:

1. Upon receipt of a complete application and payment of the permit fee, as specified in Section 5.68.090 of this chapter; and

2. After fingerprinting of the applicant by the police department, if the director so requires; and

3. After submission of four recent dated portrait photographs, one to be attached to the application, one to be attached to the driver permit if issued, and two for the use of the police department.

B. All permits shall expire on April 30th, of the calendar year following the date of issuance unless sooner revoked. ~~A permit shall not be transferable.~~ Application for renewal shall be submitted between March 1st and March 31st for the year beginning the succeeding May 1st.

C. A food vending vehicle driver permit shall be denied by the director if he or she finds any of the following grounds:

~~1. The applicant knowingly made a false statement of fact required to be revealed in the permit application;~~

21. FailureThe applicant failed to comply with the requirements of this section;

32. The information required by submitted pursuant to Section 5.68.090 of this chapter is materially false or incomplete;

3. The applicant has any unpaid administrative penalties imposed pursuant to Chapter 1.28 of this code.

4. Within 12 months of the date of application, the applicant has had his or her food vending vehicle driver permit revoked.

45. The applicant has been convicted of a crime, and the time for appeal has elapsed, irrespective of the entry of a subsequent order under Penal Code Section 1203.4; or ~~has done~~ committed any act involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another, or has a physical or mental disability or incapacity, or takes medication, uses alcohol or any controlled substance as defined in the state's Health and Safety Code.

Provided, however, that the permit shall be denied upon any of the grounds specified in this subsection (~~DC~~)(45) only if, ~~in the opinion of the chief of police, contained in a recommendation to the director,~~ the director finds the crime, act, disability, incapacity or impairment from a substance consumed is substantially related to the qualifications, functions or duties of a food vending vehicle driver. However, no person shall be denied a permit solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under State Penal Code Section 4852.01, et seq., or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed to

evaluate the rehabilitation of a person when considering a petition under Penal Code Section 4852.01, et seq.

~~5.68.110 Unlawful activities.~~

~~_____ A. It is unlawful for any person to operate a food vending vehicle for compensation with knowledge that the food vending vehicle is not authorized by a valid permit or that grounds for revocation or suspension of said permit pursuant to Section 5.68.120 of this chapter exist.~~

~~_____ B. It is unlawful for any food vending vehicle driver or person in the business of operating a food vending vehicle to do any of the following:~~

~~_____ 1. Operate a food vending vehicle for food vending purposes between the hours of eight p.m. of one day and five a.m. of the following day during the months of April, May, June, July, August, September and October;~~

~~_____ 2. Operate a food vending vehicle for food vending purposes between the hours of six p.m. of one day and five a.m. of the following day during the months of January, February, March, November and December;~~

~~_____ 3. Fail to display a valid vehicle permit and permit decal, issued pursuant to this chapter;~~

~~_____ 4. Transfer or sell a vehicle permit to a vehicle other than that identified in the permit application;~~

~~_____ 5. Fail to carry on his or her person for display upon the request of any peace officer or a city official or employee authorized to enforce this chapter, a valid driver permit, issued pursuant to this chapter;~~

~~_____ 6. Transfer or sell a driver permit to any person other than the person identified in the permit application;~~

~~_____ 7. Broadcast any sound from any food vending vehicle which can be heard more than five feet from such vehicle without first filing a registration statement with the police department and obtaining a license to broadcast according to the provisions of Section 10.60.030 of this code.~~

~~_____ C. Notwithstanding the provisions of subsections (B)(1) and (2) of this section, a food vending vehicle may be operated during the hours prescribed by said subsections (B)(1) and (2) of this section if the vehicle stops only on private property which is used for nonresidential purposes, with the permission of the occupant of the property, for the primary purpose of selling food to employees of the business located on the private property and to the employees of other nearby businesses.~~

5.68.420110 Suspension or revocation of permit.

 A. The Director may suspend or revoke ~~Anyany~~ food vending vehicle permit or any food vending vehicle driver permit issued hereunder ~~may be suspended or revoked~~ on the basis of any of the following grounds:

 1. ~~when it shall appear to t~~The director determines that any activity authorized by the permit is being carried out in such a manner as to constitute a nuisance, or to be injurious to the public health, safety or welfare;~~;~~ or

 2. The operation of the food vending vehicle is in violation of any conditions imposed upon the permit or in violation of any provision of this chapter, this code, Sacramento County Code or state law, ~~which includes~~ including, but ~~is not limited to:~~

 a. Chapter 5.68 of this code regarding food vending vehicles,

 b. Chapter 5.88 of this code regarding outdoor vending,

 c. Chapter 10.60 of this code regarding the broadcasting of sound, or

 d. The California Retail Food Code (commencing with Health and Safety Code §113700); or

 3. ~~that t~~There exists any of the grounds ~~which that~~ that would have been grounds for denial of the permit application.

 B. Except as provided in subsection (C) of this section, ~~N~~no permit shall be suspended or revoked until a hearing ~~shall have been is~~ held by the director. Written notice of the time and place of such hearing shall be given at least five days prior to the date set for such hearing to the person to whom the permit was granted and to any other person who, at least ~~ten (10)~~ days prior to the hearing, ~~shall have requested requests~~ such notice. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery ~~thereof~~ to the persons to be notified, or by depositing the ~~same~~ notice in the U.S. mail in a sealed envelope, postage prepaid, addressed to ~~such the~~ persons to be notified at the address appearing in the application for a permit.

 C. In the event of a cancellation, expiration, or change of insurance coverage resulting in noncompliance with section 5.68.060 of this chapter, the food vending vehicle permit issued pursuant to this chapter shall be automatically suspended, effective on the effective date of the cancellation, expiration, or change in coverage. The suspension shall continue until required insurance coverage is reinstated and the city receives written notice from the insurer indicating compliance with the requirements of Section 5.68.060 of this chapter, or until the permit expires.

 D. Upon the director’s suspension or revocation of any permit pursuant to this

section, the permittee shall surrender the subject permit to the City within 10 days.

~~_____ The permittee may appeal the decision of the director to the city council by filing a notice of appeal, accompanied by an appeal fee in an amount set by resolution of the city council, within ten (10) days after the date of the director's decision. The notice of appeal shall state generally the grounds of appeal.~~

~~_____ The city council may appoint a hearing examiner to hear the matter pursuant to Chapter 1.24 of this code.~~

5.68.120 Appeal of action on permit

A. An applicant may appeal the director's decision to deny their application submitted pursuant to this chapter, and a permittee may appeal the director's decision to suspend or revoke their permit issued pursuant to this chapter, to the city council in accordance with chapter 1.24 of this code.

B. A notice of appeal, accompanied by an appeal fee in an amount set by resolution of the city council, must be filed within 10 days after the date of the director's decision.

5.68.130 Stopping

No person may sell any product from a food vending vehicle unless the vehicle has been brought to a complete stop and is parked in a lawful manner.

5.68.140 Lighting

No vendor may sell any product from a food vending vehicle unless the site is adequately lit to ensure customer safety. Any lighting maintained by the vendor shall be directed downwards and away from public streets and adjacent properties.

5.68.150 Utilities

No person may operate a food vending vehicle while the vehicle is connected to an external source of power, water or any other utilities;

5.68.160 Signs and furniture

No vendor may place any free-standing signs, tables, chairs, fences, shade structures, or other furniture on or near the site of the operation of the food vending vehicle.

5.68.170 Operation on the public right-of-way

It is unlawful for any person to operate a food vending vehicle while stopped,

standing or parked on the public right-of-way:

A. Between the hours of 8:00 p.m. of one day and 5:00 a.m. of the following day during the months of April, May, June, July, August, September and October;

B. Between the hours of 6:00 p.m. of one day and 5:00 a.m. of the following day during the months of November, December, January, February and March.

C. For more than 30 minutes in one location, without moving to a new location at least 400 feet away;

D. Within 400 feet of a location where the same food vending vehicle previously operated, on the same calendar day;

E. Within 400 feet of any other food vending vehicle; or

F. Within 100 feet of any street intersection controlled by a traffic light or stop sign.

5.68.180 Operation on private property - consent

A. It is unlawful for any person to operate a food vending vehicle on private property without the express written consent of the owner of the property.

B. Prior to vending on private property, the written consent of the owner of the property shall be provided to the Director, in the form approved by the Director.

C. A copy of the written consent shall be maintained with the corresponding food vending vehicle at all times the vehicle is being operated on private property.

D. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle on private property shall present a copy of the written consent that is in effect for that vehicle.

5.68.190 Operation on private property - generally

A. It is unlawful for any person to operate a food vending vehicle on private property if any of the following conditions apply:

1. The property is vacant;

2. The operation of a food vending vehicle is the primary use of the parcel. The operation of a food vending vehicle must be incidental to a primary use that complies with the zoning code;

3. The food vending vehicle is stopped, standing or parked in any location on

the property that interferes with access, driveways, aisles, or the circulation of vehicles or pedestrians;

4. The food vending vehicle is stopped, standing or parked on any surface that is not paved with concrete, asphalt or other similar material: or

5. Another food vending vehicle is already operating on the property.

B. Notwithstanding subsection (A) of Section 17.64.030 of this code, the operation of food vending vehicles shall be allowed on parking facilities, subject to the following restrictions:

1. The food vending vehicle shall not occupy or block any parking spaces required for the primary use of the parcel as determined pursuant to Chapter 17.60 of this code; and

2. The operation of the food vending vehicle shall comply with all other provisions of this code.

5.68.200 Operation on private property – zoning districts

It is unlawful for any person to operate a food vending vehicle on private property in any zoning district other than a Heavy Commercial and Industrial Zoning District, or a Commercial and Hospital Zoning District, in accordance with Sections 5.68.210 and 5.68.220 of this code.

5.68.210 Private property - Heavy Commercial and Industrial Zoning Districts

A. It is unlawful for any person to operate a food vending vehicle on private property in a Heavy Commercial and Industrial Zoning District that is at least 400 feet away from any residence, during the hours that the business located on that property is closed.

B. The operation of a food vending vehicle on private property in a Heavy Commercial and Industrial Zoning District that is within 400 feet of any residence shall be subject to the same regulations as the operation of a food vending vehicle on private property in a Commercial or Hospital Zoning District, as set forth in Section 5.68.220 of this code.

5.68.220 Private property - Commercial or Hospital Zoning Districts

It is unlawful for any person to operate a food vending vehicle on private property

in a Commercial or Hospital Zoning District:

A. Between the hours of 8:00 p.m. of one day and 5:00 a.m. of the following day during the months of April, May, June, July, August, September and October; or

B. Between the hours of 6:00 p.m. of one day and 5:00 a.m. of the following day during the months of November, December, January, February and March.

C. For more than 30 minutes in one location, without moving to a new location at least 400 feet away; or

D. Within 400 feet of a location where the same food vending vehicle previously operated, on the same calendar day.

5.68.230 Private property – construction sites

Notwithstanding the provisions of Sections 5.68.200 through 5.68.220, a person may operate a food vending vehicle on any private property upon which any building or structure is being constructed, demolished, altered or repaired, during the hours that such activity is taking place, and for the purpose of selling food and beverages to those persons engaging in such activity.

5.68.240 Private property – stand-alone parking facilities

Notwithstanding any other provision of this code to the contrary, food vending vehicles shall not be operated in a stand-alone parking facility as described in subsection (G) of Section 17.64.010 of this code.

5.68.250 Exemption of established operations on private property

A. The operation of a food vending vehicle on private property shall be exempt from Sections 5.68.210, 5.68.220 and Chapter 17.88 of this code until January 1, 2013, if the food vending vehicle permittee has an established operation on private property.

B. A food vending vehicle permittee shall be deemed to have an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee’s food vending vehicle has operated on a private property with the continuous consent of the property owner since at least January 1, 2006.

C. The exemption in the above subsection (A) is subject to the following conditions:

1. The exemption applies only to the specific private property that the

director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection (B) of this section;

2. The exemption applies only as long as the consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;

3. The exemption applies only as long as the food vending vehicle permit to which it is related, is continuously maintained as valid. If the food vending vehicle permit is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a food vending vehicle driver permit is subsequently obtained;

4. A person may only operate a food vending vehicle in accordance with this exemption between the hours of 5:00 a.m. of one day, and 2:00 a.m. of the following day; and

5. Except as set forth in subdivision A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code.

5.68.260 Penalty

Any person who violates the provisions of this chapter shall be guilty of a misdemeanor. In addition, the city may also impose administrative penalties pursuant to Chapter 1.28 of this code and seek injunctive relief and civil penalties in the superior court for violations of this chapter. The remedies provided for in this chapter shall be cumulative and not exclusive of any other remedies available under any other federal, state or local laws.

SECTION 3.

Section 5.88.030 of the Sacramento City Code is hereby amended to read as follows:

5.88.030 Certain sales permitted.

A. It is unlawful for any person to sell, expose for sale, or offer for sale any goods, wares, merchandise, or food of any kind or description for which a price is asked, and the article delivered, from the public sidewalks, streets or alleys in the central business district, ~~excepting therefrom~~ the following:

1. The sale, dissemination and distribution of newspapers and religious and educational periodicals;
2. The sale of novelties and food during parades held in the central business district, provided such sales are made only along the designated parade route;
3. The sale of food, including the operation of food vending vehicles in

accordance with chapter 5.68 of this code, between the hours of seven a.m. and two p.m. at construction sites in the central business district upon which construction activity is taking place;

4. The sale of food or flowers on public sidewalks pursuant to Article III of this chapter, provided the vendor complies with all applicable laws, including, but not limited to, traffic and parking laws, health laws, and the provisions of Sections 5.88.080 through 5.88.180 of this chapter;

5. The sale, exposing for sale, and offering for sale any goods, wares, merchandise, or food from any public sidewalk, street, or alley or portion thereof, that is the subject of an operations agreement between the city and the Sacramento Regional Transit District for the operation of a light rail station, when undertaken pursuant to a license issued by the Sacramento Regional Transit District.

B. No person shall park a vehicle, car or similar device on a street or alley in the central business district for purposes of selling food or flowers, except that a vehicle can be parked on a street or alley for the purpose specified in subsection (A) (3) of this section.

C. This chapter shall not supersede the provisions of Chapter 12.44 of this code relating to pedestrian mall regulations.

D. In those instances in this chapter where the sidewalk is permitted to be used for commercial purposes, a space on the sidewalk at least six feet in width shall at all times be kept clear for the accommodation of pedestrians.

E. It is unlawful for any person to sell, expose for sale, or offer for sale any goods, wares, merchandise or food of any kind or description for which a price is asked, and the article delivered, from the public sidewalks, streets or alleys outside the central business district, ~~excepting therefrom~~ the following:

1. The sale, dissemination and distribution of newspapers and religious and educational periodicals;

~~2. The sale of food from motorized vehicles operation of food vending vehicles in accordance with chapter 5.68 of this code, provided that it shall be unlawful for any vendor to stop, stand or park more than fifteen (15) minutes on a public street without moving on to a new location at least one city block removed therefrom, and further provided that the vendor complies with all applicable laws, including, but not limited to, traffic and parking laws and health laws;~~

3. The sale, exposing for sale, and offering for sale any goods, wares, merchandise, or food from any public sidewalk, street, or alley or portion thereof, that is the subject of an operations agreement between the city and the Sacramento Regional Transit District for the operation of a light rail station, when undertaken pursuant to a

license issued by the Sacramento Regional Transit District.

F. ~~The sale of food from motorized vehicles which is permitted~~ operation of food vending vehicles that is allowed by this article may be undertaken only in compliance with ~~the permit requirements of Chapter 5.68 of this code.~~

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

MAYOR

Attest:

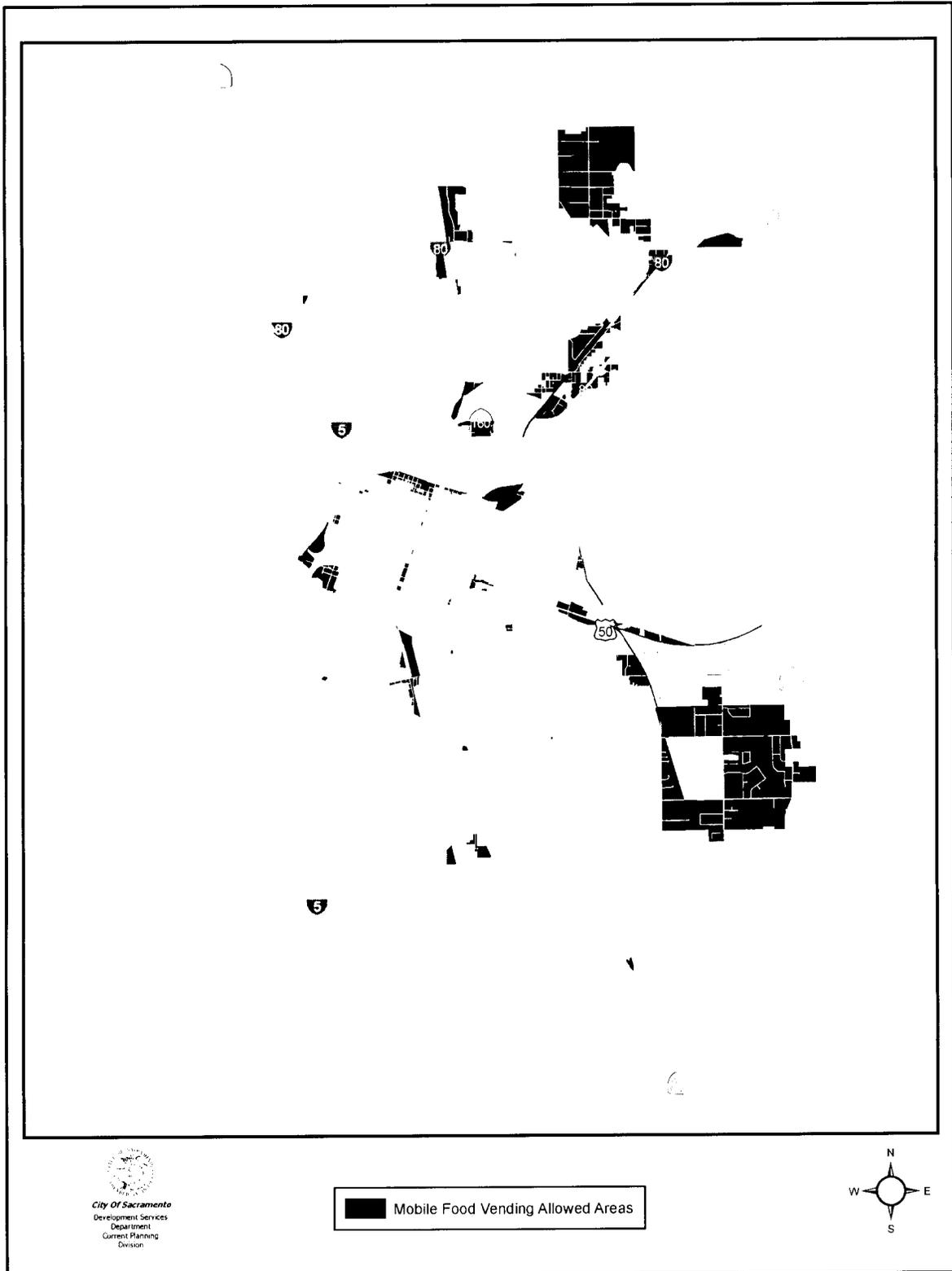
City Clerk

Passed for Publication:

Published:

Effective:

Attachment 6



Attachment 7

Food Vendors on Private Property

	Vendor	Vendor location	Letter on File	
1	El Grullense	6200 Florin Perkins		
2	Taco De Oro 2	8642 Elder Creek		
3	Loncheria Morales #1	5400 South Watt	No letter on file	Universal/South Watt (9/28/05) Elder Creek/Thys Ct (9/28/05) Folsom/Jackson (9/28/050)
4	Taco Del Oro	8354 Folsom/Jackson Hwy		
5	Tacos La Piedad	2620 Northgate	X	
6	La Mex Taqueria	2630 Northgate	X	
7	Leaven & Earth	714 9 th Street	X	
8	Pupusas Salvadorena	6418 Stockton Blvd		
9*	La Guanakita	2251 Florin Rd	X	
10*	Flores Antojitos Aqui Me Quedo.	6418b Stockton Blvd	X	Vending since 6/2007
11*			5	