REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
January 15, 2008

Honorable Members of the
Law and Legislation Committee

Title: Food Vending Vehicle Ordinance Revisions

Location/Council District: Citywide

Recommendation:

Staff recommends that the Law & Legislation Committee approve and forward the amendments to Chapter 5.68 of Title 5 and section 5.88.030 of Chapter 5.88 of Title 5 to City Council for final approval.

Contact: Dafna P. Gauthier, Permit Manager 808-7800

Presenters: Brad Wasson, Revenue Manager
Dafna P. Gauthier Business Permit Manager

Department: Finance Department

Division: Revenue Division/Permit Section

Organization No: 1124

Description/Analysis

Issue: Food Vending Vehicles (FVV) have been vending for prolonged periods of time on private property in the City of Sacramento. Various City codes are in conflict regarding this type of vending. The Law and Legislation Committee directed staff to do further research on the issue and work with the FVV Industry and bring recommendations back to the Committee. Additionally, the FVV code needs to be updated to provide better regulation and enforcement consistent with other business permit codes (i.e. taxicabs).

Staff requests the Law & Legislation Committee approve and forward the ordinance amending the Food Vending Vehicle code, which will impose the following changes:

- On the public right of way, a FVV may only operate during daylight hours and stop to vend for 30 minutes at a time, without 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 only 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, without 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 in a Commercial or Hospital Zoning District. A FVV may operate during daylight hours and for only 30 minutes at a time, without 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.
- 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.

- 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 which it is related is continuously maintained and valid.

- A person who violates the provisions of this chapter is guilty of a misdemeanor.

- 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.

- Vehicle permit is automatically suspended if insurance expires or is otherwise invalid.

- Increase the liability insurance requirements for each vehicle to $1 million dollars.

- Permits may be revoked upon a violation of Section 10.60.020 regarding the broadcasting of sound from the vehicle.

The State of California has completely revised its laws that are applicable to food vending vehicles. (S.B. 144, Stats. 2006, ch. 23.) These changes took effect on July 1, 2007. Staff has compared the new language to ensure the City Code is consistent with State law.

Policy Considerations: Food Vending Vehicles provide convenient food and beverage service to the residents and workers of all areas of the City of Sacramento. Establishing City code provisions which address contemporary needs and concerns, including reasonable regulations and requirements for operation of food vending vehicles and enhanced enforcement, benefits the public's health, safety and welfare while continuing to provide for a utilized service.

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).)

Committee/Commission Action: The Law & Legislation Committee has reviewed this matter at two separate meetings (June 20, 2006 and April 3, 2007) giving staff direction to conduct a review of the current City Code provisions relating to Food Vending Vehicles and to provide recommendations to the Committee.

On June 20, 2006, there was an overwhelming response from customers who opposed staffs proposed recommendations. Staff was subsequently directed to form a Mobile Food Vending Task Force to be chaired by Council Member Sandy Sheedy.

On April 3, 2007 the Law & Legislative Committee directed staff to do more outreach and meet with David LeBeouf of Stockton who indicated he was an attorney representing other stakeholders of the mobile food vending industry that did not agree with all of the staff's recommendations. Staff was advised to revisit the issues and meet with Mr. LeBeouf and other mobile food vending stakeholders, and the meeting would be chaired by Council Member Lauren Hammond. Staff has met with Mr. LeBeouf and the stakeholders and makes the above recommendations to the Law and Legislation committee.

Rationale for Recommendation: Unregulated food vending from vehicles can result in threats to the health, safety, and welfare of the citizens of the City of Sacramento. Staff has found a public demand for prolonged vending on private property. With consistent regulation and enforcement, the health, safety, and welfare concerns can be mitigated.

Financial Considerations: The staff recommendations 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. Staff will consult with the City's ESBD Advisory Committee and will report back at a later date.

Respectfully Submitted by: _____
Brad Wasson, Revenue Manager
for Brad Wasson

Approved by: _____
Russ Fehr, Director of Finance

Recommendation Approved:

_____
Ray Kerridge
City Manager

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Attachment 1

Background Information

Food Vending Vehicles ("FVV") have been vending for prolonged periods of time on private property in the City of Sacramento. There are city codes that are in conflict regarding this type of vending. Chapters 5.68 and 5.88 of the Sacramento City Code, which control the operation of FVV (also referred to as mobile food coaches, lunch wagons and catering trucks), are unclear as it applies to prolonged vending on private property. The FVV code needs to be updated to provide better regulation and enforcement consistent with other business permit codes (i.e. taxicabs).

Staff has been working with the Law & Legislation Committee ("the Committee"), the FVV stakeholders, and the community since 2002. From the aforementioned meetings, there seems to be a theme of primary concerns with the FVV industries in the following areas:

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

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

On **June 20, 2006,** the staff recommendations were to allow Food Vending Vehicles 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, a developed a list of recommendations. A stakeholder meeting chaired by CM Sheedy was then held on **January 8, 2007.** The parties at this meeting discussed the recommendations, suggested a few changes, and agreed upon the recommendations that were later brought forward to the April 3, 2007 Committee meeting. Some of the recommendations from that meeting are listed below.

- Allow Mobile Food Vendors to vend on private property in excess of 30 minutes only with a Mobile Food Vending private property permit obtained by the Food Vendor and the property owner.
- Allow only one (1) vendor on each parcel.
- The property owner and mobile food vendor will be both responsible for compliance with applicable laws.

At the January 8, 2007 stakeholder meeting, stakeholders brought up the issue of after-hours vending and vending in the Midtown area. Mobile Food Vendors requested to be allowed to vend into the evening hours in non-residential areas. Staff contacted the Sacramento Police Department, City Code Enforcement, and the Midtown Association to gather their input in regards to after hours vending, and to make recommendations to the Law & Legislation Committee.

The Midtown association 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:

- ✓ Concerns regarding interference of the peace and welfare of local residence.
- ✓ Increase loitering and noise in the area.
- ✓ Possible problems of patrons standing in the roadway or jaywalking to get to the Vendors.
- ✓ Vendors parking in the street blocking or impeding traffic.
- ✓ Higher risk of increase noise level and complaints, criminal activity such as robbery, assault on vendors, etc.

Due to changes being made to the State Health & Safety Code that affected the food vending industry, staff did not prepare or distribute a FVV draft ordinance for the stakeholders or the Committee. Also, David LeBeouf, an attorney representing some of the vendors was not at the stakeholders meeting. So staff was directed by the Committee to have another stakeholders meeting including Mr. LeBeouf, and provide a copy of a draft ordinance to the stakeholders prior to the next scheduled Committee meeting. The next stakeholders meeting was to be chaired by Council Member Hammond.

On May 21, 2007 a stakeholder meeting was held with David LeBeouf in attendance. The following items were discussed:

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

Discussion also stemmed around adding a grandfather clause for prolonged vending on private property, and having property permission letters on file with the City of Sacramento Finance Department.

After the ordinance was drafted, a follow up meeting occurred on September 4, 2007 with Mr. LeBeouf in attendance along with other stakeholders who felt they had a vested interest in the ordinance revision. Senior Deputy City Attorney Steve Itagaki had a follow up telephone conversation with Mr. LeBeouf to discuss issues that were brought out at this meeting. Staff has taken everyone's opinions into account and has tried, to the best

of everyone's ability, to make this a win-win situation. Taking all matters into account, staff recommends the City Code be amended in accordance with this report. (See, Recommendations pp. 2-3.)

At a previous Law & Legislative Committee meeting, staff was asked to attach a copy of the City of Stockton Mobile Food Vending ordinance to the staff report, and a change comparison of ordinance changes between City of Stockton and the City of Sacramento. Attachment A is the Stockton ordinance, and Attachment B is the matrix comparison of the two city ordinances.

Push carts
The issue of push carts has also been brought up in the discussion about FVV. However, since push carts are regulated differently than FVV, it was agreed upon to look into push carts separately after the revision of the FVV code. Nevertheless, staff has done some research in this area for the Committee. Code Enforcement is working with the City Attorneys office, looking at the language of the City's Outdoor Vending Code. (City Code, Chapter 5.88.)

Vending within parks
City Staff is looking at modifying the code for street corner vending in the CBD to include other locations on a city wide basis.

On October 30, 2007, the City of Sacramento's Business Permit Section coordinated a **Sacramento City/County Regional meeting** with other sister cities within the Sacramento area to discuss issues in regards to FVV and push carts. The City partnered with the County of Sacramento Business Licensing Unit to organize this meeting to look at the issues with other cities, and brainstorm solutions that would work regionally instead of pushing the problems from one city to another.
The Sacramento Regional meeting consisted of cities and agencies within the Sacramento region ranging from Lodi to Folsom (Lodi, Folsom, Citrus Heights, Elk Grove, West Sacramento, Yolo County, Sacramento County District Attorneys office, City of Sacramento City Attorneys office, County Health Department, Agricultural department, and the City and Counties business license and code enforcement teams).

All parties agreed this was a much needed effort in meeting and Cities across the Sacramento Region where having the same or similar issues. During the brainstorming sessions, ideas ranged from:

- Establishing a Community outreach to the FVV industry to educate stakeholders of the industry of the rules and regulations that could affect them in the County/City they are operating.
- Some of the challenges staff is encountering are language barriers between staff and the different vendors. We discussed possibly providing a media outreach campaign in the different languages primarily affecting our region (e.g. Spanish & Vietnamese) to educate the vendors in their language.
- Provide brochures in different languages about rules and regulations of vending in certain cities.

- Coordinate a Regional Sting operation with code enforcement teams from different cities, after initiating an outreach to the public of the correct way to vend in the different cities.
- Utilizing the Police Departments in sting operations to help identify vendors who do not have proper identification to identify who they are.
- Assist vendors in obtaining vendor permits (where feasible) and bring them in compliance with the vending regulations of the Region.
- Create an informational database where code enforcement could utilize regional information to decrease redundancy across the region and utilize each other as a resource.
- Possibly have push carts allowed in certain areas and open spaces, but this will have to be looked into more.

These are just a few of the ideas that came out of the brainstorming session; of course, details must be worked out with all of them. The hope is to continue to have dialogue between the Cities within the region, and to work together as a team where appropriate, and keep the communication lines open by having quarterly meetings to address the issues that involve licensing and enforcement.
We understand that each City has its uniqueness and different rules and regulations, but coming together on issues that are common among cities to decrease the workload where possible, and utilize each other as a valuable resource is one of the goals we wish to accomplish.

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)

2) **Industrial.** Temporary and permanent containerized storage units shall be allowed in compliance with the requirements of this Development Code for primary structures, including the following:

a) **Screening.** All containerized storage units shall be screened from public rights-of-way in compliance with 16-310.100 (Screening and Buffering); and

b) **Parking.** The containerized storage unit shall be included in determining the parking requirements for the primary use in compliance with Division 16-345 (Off-Street Parking and Loading Standards).

3) **Residential.** Containerized storage units shall be prohibited in residential zoning districts.

b. **Modifications.** Any modification or permanent attachment to the ground shall be subject to the requirements of this Development Code, the Municipal Code, the Uniform Building Code, Standard Plans and Specifications, and Design Review.

3. **Mobile Vendors.** Street vendors, as defined in Article 8, shall be allowed as an outdoor accessory use in a commercial zoning district or PF (Public Facilities) zoning district in compliance with the following:

a. A Business License is obtained in compliance with Section 6-034 of the Municipal Code;

b. Not utilize, or be located on, parking spaces required for the primary use;

c. Not be located on a vacant parcel;

d. Be located on pavement per City standards;

e. Provide sufficient room surrounding the cart to allow for accessibility and to meet fire codes and ADA requirements;

f. Not interfere with access, aisles, circulation, driveways, or fire lanes and shall not operate in a place where the operation will create a traffic hazard;

g. Not interfere with pedestrian movement or create a pedestrian hazard;

h. If food or drink is served:

1) All cooking shall be off-site;

2) Provide a trash receptacle and keep the area litter free at all times; and

3) Comply with the requirements of the County Health Department

i. Use of a public right-of-way shall only be allowed in compliance with Section 6-034.22 of the Municipal Code.

4. **Motorized food wagons.** Motorized food wagons shall:

   a. **Private property.**

      1) Be incidental to a primary use with a valid Business License; a temporary motorized food wagon shall not be the primary use of a parcel. Motorized food wagons shall not be permitted as an accessory use to a stand-alone parking lot ("Auto/vehicle Services – Inoperable Vehicle Storage/Parking Facilities, Public/Vehicle Storage");

      2) Be located in an industrial zoning district. Use of motorized food wagons during special events shall be permitted subject to Division 16-570 (Temporary Activity Permits). Not withstanding the above, nothing shall prohibit the temporary use of a motorized food wagon on commercial property;

      3) Not be located on a vacant parcel;

      4) Be located on pavement per City standards;

      5) Not utilize, or be located on, parking spaces required for the primary use. At least two parking spaces, in addition to those required for the primary use, shall be provided for the motorized food wagon operation;

      6) Not interfere with access, driveways, aisles, or circulation, and shall not operate in a place where the operation will create a traffic hazard;

      7) Comply with the requirements of the County Health Department; and

   b. **Public right-of-way.** Only be permitted on public rights-of-way, subject to Section 6-034.22 of the Municipal Code.

5. **Outdoor phone booths.** Outdoor phone booths shall only be allowed in compliance with the Municipal Code.

6. **Retail/service.** Provides standards for accessory uses and structures allowed in the RH and CO zoning districts. Accessory uses include any use that is customarily incidental to the main use and provides an accessory service, including lunchrooms, prescription pharmacies, and beauty and barber shops, to serve occupants and patrons of the main use, subject to the following requirements:

   a. Shall be incidental to and not alter the residential or office character of the site;

   b. No entrance to the business shall face directly on a public way or have direct access to a public street;

   c. All goods or services shall be displayed, dispensed, and stored solely within the structure;

   d. There shall be no exterior display or other advertising media employed or readily visible from the exterior of the structure;

   e. Shall not exceed 25 percent of the structure area; and

f. Shall be developed in compliance with the building envelope standards for the main structure.

C. **Other.** Other accessory uses and structures shall be subject to the following:

1. The accessory uses are allowed if:

a. The accessory use is identified in Table 2-2 (Allowed Land Uses and Permit Requirements) as an allowed use if it were a primary use; or

b. The accessory use or structure is:

1) Incidental to the primary use;

2) Has a floor area that is less than 25 percent of the floor area covered by the primary use;

3) Has an overall site area that is less than 10 percent of the overall site covered by the primary use;

4) In the opinion of the Director, would not have a substantial, adverse effect on adjacent property;

5) Not located in a required setback area, except as provided for in 16-310.120 (Setback Regulations and Exceptions);

6) Not adversely impacting circulation or increase the required number of parking spaces; and

7) Would comply with existing requirements of agencies having jurisdiction and other appropriate regulatory agency.

2. For those accessory uses that do not meet the requirements of 16-365.020.C.1., above, the level of review for the accessory use shall be the same as the level of review required for the primary use.

16-365.030 - Adult-Related Establishments

A. **Purpose**. The purpose of this Section is to regulate the location of sexually-related establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually-related establishments within the City, thereby reducing or eliminating the adverse secondary effects from these establishments (e.g., crime, degraded commercial districts, and residential neighborhoods).

B. **Establishment and separation of businesses regulated.** No person, whether an owner, principal or agent, clerk, or employee either for himself/herself or any other person, or an officer of a corporation shall place, maintain, own, or operate any adult-related business/establishment, as defined in Article 8 (Definitions) in the following locations:

1. Within 500 feet of a residential zoning district.

2. Within 1,000 feet of any other adult-related business/establishment; or

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).)	Residential Use Areas: 7am-8pm. Commercial Use Areas: 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).)	Residential Use Area: 30 minutes, move 400 feet, each location only once a day. Commercial Use Areas: 3 hours, move 400 feet, each location only once a day. If within 400 feet of a residence, Residential Use Area regulations apply. Industrial Use Area: 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	--	Residential Use Areas: 400 feet between motorized food wagons.	Prohibited within 400 feet of any other food vending vehicle. (§5.68.170(E).)
Private Property			
Hours	April-October: 5am-8pm November-March: 5am-6pm (§5.68.110(B)(1)-(2).) Operation allowed anytime on nonresidential property, with permission, to serve nearby businesses. (§5.68.110(C).)	--	Determined by zoning. See below.

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

Trash Cans	--	Shall be equipped with refuse containers. (§7-049.11(B).)	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.
Commissary	--	Shall operate out of a commissary (§7-049.11(A).)	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.
		Site	
Condition	--	Site shall be maintained in a safe and clean manner at all times. (§7-049.9.) Operator shall pickup all refuse generated within 25 foot radius before vehicle is moved. (§7-049.11(B).) Exterior storage of refuse, equipment, or materials associated with the wagon is prohibited. (§7-049.9.)	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.

Furniture	--	No tables, chairs, fences, shade structures or other site furniture or any free standing signs. (§7-049.9.)	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.)
Sanitation			
Trash Disposal	--	No vendor shall dispose of any trash in any public trash receptacle that is not owned by the vendor. (§7-049.11(B).)	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.)
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.)
Vehicle Safety	--	No vending except after vehicle is completely stopped and lawfully parked. (§7-049.12(A).)	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,

Loitering	--	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).)	--
		Penalty	
Penalty	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).)	Misdemeanor, unless prosecutor files it as an infraction. (§7-049.14.)	Any violation is a misdemeanor; the City may also impose administrative penalties; and may seek injunctive relief and civil penalties. (§5.68.260.)
		Exemption	
Exemption	--	--	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.

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, in appropriate 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.

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

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.

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, or on a private property in a Heavy Commercial and Industrial Zoning District that is within 400 feet of any residence:

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 permitee has an established operation on private property.

B. A food vending vehicle permitee shall be deemed to have an established operation on private property if, based on credible evidence submitted by the permitee prior to March 31, 2008, the director finds that the permitee'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 permitee 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:

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, 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 Aapplication for a food vending vehicle permit shall be filed with the director and shall contain the following:

~~A~~1. _The individual and business name, address, and telephone number of the permit applicant;

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

~~C~~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 ~~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.

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

~~E~~6. ~~A City certificate of insurance, establishing~~ Proof of compliance with the insurance requirements set forth in Section 5.68.060 of this chapter;

~~F~~7. ~~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;

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

~~H~~9. 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;~~

~~J~~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~~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.~~

~~D~~C. ~~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.~~

~~2~~1. 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.

~~3~~5. 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 (~~D~~C)(~~3~~5) 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:

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

~~B~~2. Issued by an admitted insurer or insurers as defined by the California Insurance Code; and

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

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

~~E~~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

~~F~~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 ~~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:

~~A~~1. 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;~~

~~2~~1. ~~Failure~~The 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 (~~D~~C)(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.~~120~~110 Suspension or revocation of permit.

A. The Director may suspend or revoke ~~Any~~any 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 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

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.

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, or on a private property in a Heavy Commercial and Industrial Zoning District that is within 400 feet of any residence:

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 permitee has an established operation on private property.

B. A food vending vehicle permitee shall be deemed to have an established operation on private property if, based on credible evidence submitted by the permitee prior to March 31, 2008, the director finds that the permitee'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 permitee 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~~ing therefrom~~ the following:

1. The sale, dissemination and distribution of newspapers ~~stand~~ 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~~ing 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:

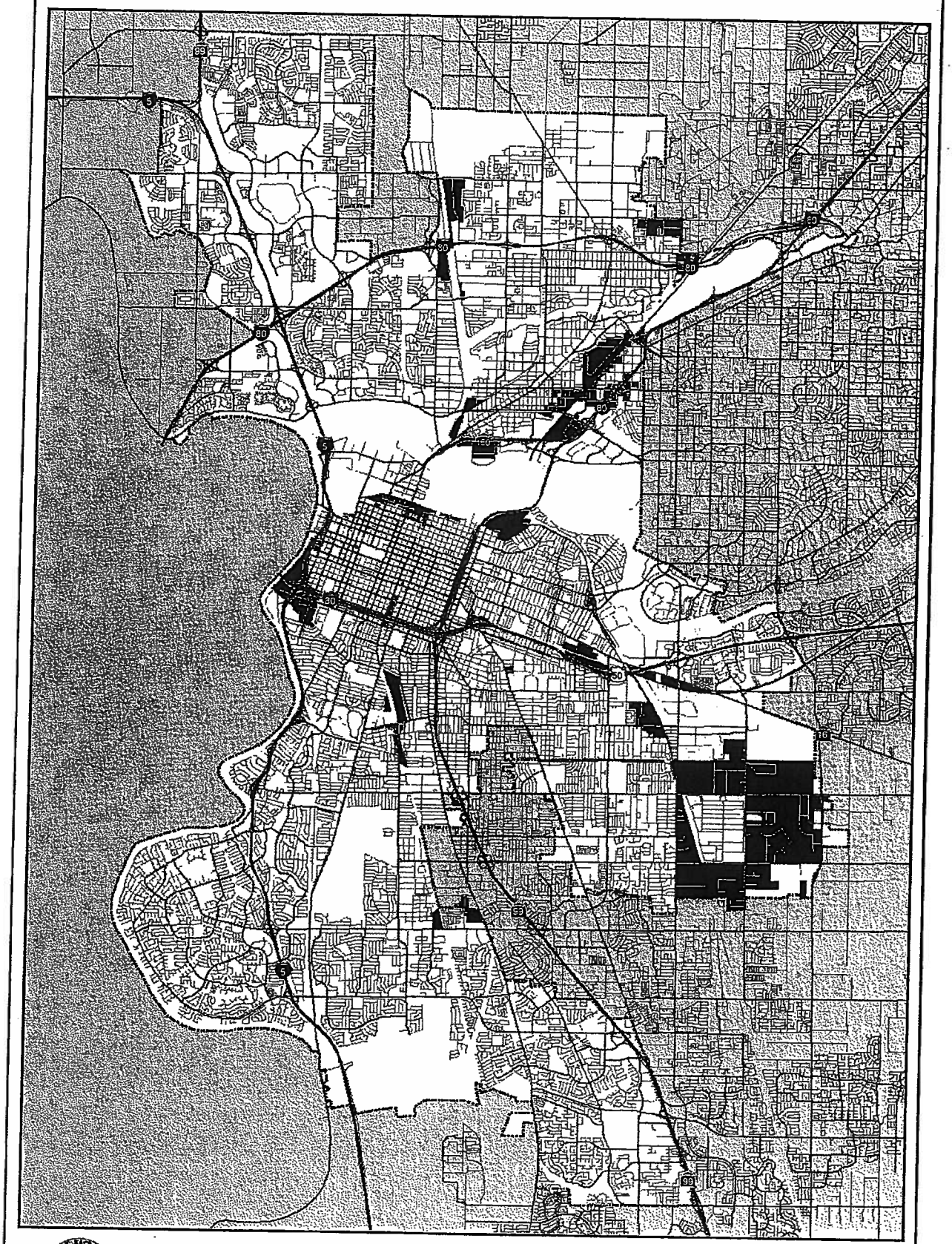
Absent:

MAYOR

Attest:

City Clerk

Passed for Publication:
Published:
Effective:



City Of Sacramento
Development Services
Department
Current Planning
Division

P06-XXXX
Title:
Item:
Location:
Planner:

##/##/2007

Draft

Mobile Food Vending Allowed Areas

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