

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, AMENDING ARTICLE 11 OF CHAPTER 9
OF THE FRESNO MUNICIPAL CODE, RELATING TO
MOBILE VENDORS.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 11 of Chapter 9 of the Fresno Municipal Code is amended as follows:

SECTION 9-1101. RESERVED.

SECTION 9-1102. DEFINITIONS.

(a) —“Mobile Vendor” shall mean any person that sells, or causes or allows another, whether as an employee or as an independent contractor leasing or renting equipment, to sell any food, drinks, or merchandise by means of a ~~motorized or non-motorized~~ vehicle [subject to licensing by the DMV], such as a [trailer or] wagon, ~~push cart, hand cart, bicycle, motorized cart,~~ food truck, or other itinerant method. Where one person employs another person to sell food, drinks or merchandise or one person leases or rents equipment or a vehicle to another person to allow them to sell food, drinks or merchandise, both individuals shall be considered Mobile Vendors. Mobile Vendor shall not mean any person operating under a concession agreement or other agreement with the city as a party to the agreement.

1 of 6

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:



Ordinance No.

~~(b) "Mobile Vendor Vehicle" or "Vehicle" shall mean a truck, push cart, bicycle, hand cart, van, wagon, automobile, car, stand, table, or any other apparatus or device used by mobile vendors to sell their food, drinks, or merchandise.~~

SECTION 9-1103. PROHIBITION. No person shall operate as a mobile vendor in the city without holding a valid and subsisting mobile vendor permit and without complying with all provisions of this article and chapter and the Code, including obtaining any and/or all necessary license(s) under Chapter 5. No person shall hire or allow others to use his or her equipment or vehicles, or products, for mobile vending in the city, unless that other person, whether as an employee, licensee, or independent contractor, holds a valid and subsisting mobile vendor permit and complies with all provisions of this article and chapter and the Code.

SECTION 9-1104. MOBILE VENDOR PERMIT. Any person that wishes to operate as a mobile vendor within the city shall obtain a mobile vendor permit issued by the ~~Controller;~~[City Manager or his or her designee, comply with the provisions of Section 15-2741 of this code, sign an indemnification and hold harmless agreement as approved by the City's Risk Manager and City Attorney,and] pay the mobile vendor permit fee established in the Master Fee Schedule; ~~and if required by the Controller, city policy or the Risk Management Division,~~ provide a bond, indemnity insurance, and/or proof(s) of liability insurance. No mobile vendor that intends to sell food or beverages in the city may be issued a

mobile vendor permit without showing proof of obtaining all necessary County Health permits or certificates.

SECTION 9-1105. ISSUANCE OR DENIAL OF PERMIT. [Upon providing a complete application which includes proof of zone clearance, County Health permit or certificate, signed indemnification and hold harmless agreement, and payment of business license tax,] ~~[t]he Controller [City Manager], or his or her designee, shall cause an investigation to be made of the facts stated in an application for a mobile vendor permit, and shall within thirty days, subject to the completion of the necessary background checks by local, state and federal agencies, issue a permit to the applicant [or provide a written statement of denial, within five business days.] if the Controller, or his or her designee, finds that the applicant is of good moral character; has not had a permit revoked for good and sufficient cause within the last twelve months or has never had a permit revoked for cause involving gross negligence or moral turpitude; that the applicant has not been convicted of a crime involving fraud, drugs, prostitution, or moral turpitude within the last five years; that the statements made in the application are probably true; that the application fee has been paid; and that no fact exists which would be cause for revocation of the permit under Section 1-507.~~ Applications shall be processed in order of receipt. A decision to deny a permit shall be issued in writing with the basis for the denial, ~~and if feasible, shall propose measures to cure any defects in the application.~~ An applicant may appeal the decision to deny him or her a permit to the City Hearing Officer

under Chapter 1, Article 4. If no appeal is filed in a timely manner, the decision of the Controller [City Manager] shall be final.

SECTION 9-1106. RULES AND REGULATIONS. The Controller [City Manager] may make rules and regulations which are not inconsistent with the provisions of this article and which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article, including all necessary policies and procedures for the issuance of the mobile vendor permits, ~~administration or registration of mobile vendor vehicles;~~ collection of the mobile vendor permit fees, ~~any required bonds and/or indemnities,~~ or proof(s) of insurance.

SECTION 9-1107. REQUIREMENTS. See Chapter 15-2740 [15-2741] for requirements.

SECTION 2. Section 9-1108. VEHICLE IMPOUNDMENT is repealed, and the following Section 9-1108 is added to read:

SECTION 9-1108. [ICE CREAM TRUCK REGULATIONS. For purpose of this article, the term "ice cream truck" means a motor vehicle engaged in the curbside vending or sale of prepackaged frozen or refrigerated desserts, confections, or novelties commonly known as ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks, primarily intended for the sale to children under twelve years of age. In addition to the other rules and conditions set forth in this Article, applications for a mobile vendor permit for an ice cream truck shall be subject to the following:

(a) Compliance with Vehicle Code Section 22456.

(b) Completion of an application for a background check, including but not limited to, a criminal background check, including submission of fingerprints for a state and federal criminal background check. A permit shall not be issued if the City Manager, or his or her designee, finds that an applicant has been convicted of or pleaded nolo contendere or guilty within five years prior to the application to a misdemeanor or felony crime of moral turpitude or drug-related misdemeanor or felony crime.]

SECTION 3. Section 9-1109 IMPOUND PROCEDURES is repealed, and the following 9-1109 is added to read:

SECTION 9-1109. [PENALTY.

(a) The city may issue an administrative citation for any violation of this article pursuant to Section 1-308 of this code. The penalty for violation shall be set forth in the Master Fee Schedule.

(b) In addition, the City Attorney may institute a civil action to ensure compliance with this article, including an action for injunctive relief and/or to recover damages and attorney's fees incurred as a result of any violation.]

SECTION 4. Section 9-1110 DISPOSITION OF VEHICLES is repealed.

SECTION 5. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.

CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2018.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2018
Mayor Approval/No Return: _____, 2018
Mayor Veto: _____, 2018
Council Override Vote: _____, 2018

YVONNE SPENCE, MMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Katie Doerr Date
Chief Assistant City Attorney

KBD:ns [79507ns/kbd]