Chapter 5.72 MOTORIZED FOOD WAGONS

5.72.010 Short title.

This chapter shall be known as the “Motorized Food Wagon Ordinance.” (Prior code § 7-049)

5.72.020 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. (Prior code § 7-049.1)

5.72.030 Definitions.

A. “Business owner” means any person, firm, or corporation, which owns or controls any interest in any business engaged in vending as defined in this section.

B. “Commissary” means 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 chapter.

D. “Motorized food wagon” means 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. For the purposes of this chapter, a motorized food wagon shall also include any trailer or wagon pulled by a vehicle.

E. “Persons” means 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” means 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” means any person who drives, operates, vends, and/or prepares food on or from a motorized food wagon. (Prior code § 7-049.2)

5.72.040 Application.

A. A person desiring to engage in a vendor operation, as defined by this chapter, shall submit a written application in a form acceptable to and with all supporting information required by the City. Such application shall be accompanied by a nonrefundable, nontransferable 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 nonrefundable, nontransferable 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 (1) vendor with a valid permit on a motorized food wagon whenever vending is taking place.
B. A vendor must obtain a background check in accordance with the requirements of Section 5.08.260 of this code.

C. Every business owner shall obtain a City 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 (4) 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 business license renewal application, business owners must show proof of payment to a commissary for the prior 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. (Prior code § 7-049.3)

5.72.050 Regulations for sales.

It is 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 except in accordance with all applicable provisions of this code. (Prior code § 7-049.4)

5.72.060 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 300 feet of any school grounds, park, playground, or City-operated recreation center.
2. A motorized food wagon shall not operate within 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 400 feet at least every 30 minutes and may not return to a previous location or within 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 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 400 feet at least every three (3) hours and may not return to a previous location or within 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 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 23 hours a day.
      ii. If a motorized food wagon is located in an industrial use area and is also within 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 16.80.020(B)(4) of this code. (Prior code § 7-049.5)
5.72.070 Exemptions.

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

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. (Prior code § 7-049.6)

5.72.080 Application of other laws and regulations.

A. The provisions of this chapter prohibiting the stopping or parking of a vehicle shall apply at all times or at those times specified by this chapter, 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 chapter 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. (Prior code § 7-049.7)

5.72.090 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. (Prior code § 7-049.8)

5.72.100 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. (Prior code § 7-049.9)

5.72.110 Lighting.

The vendor shall install adequate lighting to ensure customer safety. Lighting shall be directed downwards and away from public streets and adjacent properties. (Prior code § 7-049.10)

5.72.120 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 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. (Prior code § 7-049.11)
5.72.130 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 15 minutes after receiving their food.

C. The vendor shall enforce the no loitering rule. (Prior code § 7-049.12)

5.72.140 Applicability of regulations to existing business.

The provisions of this chapter 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 codified in this chapter. (Prior code § 7-049.13)

5.72.150 Penalty.

A violation of this chapter shall constitute a misdemeanor. Notwithstanding the foregoing, a violation of this chapter is an infraction when the prosecutor files a complaint charging the offense as an infraction. (Prior code § 7-049.14)

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