

ORDINANCE NO. 2009-02
AN ORDINANCE OF THE LEMOORE CITY COUNCIL
AMENDING CHAPTER 3 OF THE CITY ZONING ORDINANCE –
(ALSO KNOWN AS TITLE 9, CHAPTER 3 OF THE LEMOORE MUNICIPAL CODE)
ADDING SEMI-PERMANENT MOBILE FOOD VENDING AS A PERMITTED USE IN
SPECIFIED ZONE DISTRICT AND STATING THE SITE, OPERATIONAL AND OTHER
REQUIREMENTS FOR SUCH USE

The City Council of the City of Lemoore does ordain as follows:

Section 1. A new index reference shall be added below item 9-3-12 as follows:

9-3-12: Semi-Permanent Mobile Food Vending

Section 2. The introductory paragraph of Section 9-3-1 of the Lemoore Municipal Code is amended to read as follows:

9-3-1: ADDITION OF PERMITTED USES: Upon application or on its own initiative, the planning commission may add a use to the list of permitted uses prescribed in chapters 5 through 12 of this title, if the commission makes the following findings:.....

Section 3. Section 9-3-12 is added to the Lemoore Municipal Code, as follows:

9-3-12: SEMI-PERMANENT MOBILE FOOD VENDING:

A. Purpose: The city finds that the vending of produce, prepared or prepackaged foods, goods, wares, and/or services at semi-permanent locations on public streets, sidewalks, or alleys and on private property may, under certain circumstances, pose unsafe conditions and special dangers to the public health, safety and welfare of the residents of the city. It is a purpose of this Section to provide clear and concise regulations governing these types of vending operations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the city and its residents and to prevent the unregulated proliferation of too many vendors near one location, thus negatively impacting traffic and pedestrian safety.

Furthermore, it is a purpose of this Section to:

1. Establish standards to ensure that semi-permanent mobile food vehicles and vendors within permitted zone districts are compatible with their surroundings and aesthetics of the community.

2. Ensure that semi-permanent mobile food vehicles and vendors meet the standards, criteria and regulations set forth below, are in compliance with the County of Kings Department of Public Health requirements, and obtain all the permits and licenses required by applicable law.

B. Definitions: Certain words and terms used in this Section are defined below. Words or terms defined in the plural include the singular, and vice versa.

Commissary: A food facility approved by the Kings County Public Health Department that services mobile food vehicles where any of the following occur: (i) food, containers or supplies are stored, (ii) food

is prepared or prepackaged for sale or service at other locations, (iii) utensils are cleaned, and/or (iv) liquid and solid wastes are disposed or potable water is obtained.

Developed site: A site that has paved concrete or asphalt parking surfaces and paved ingress and egress as well as landscaping that meets City standards.

Prepared food: Food sold at retail that, prior to such sale, is washed, cooked or combined or otherwise prepared at the vending facility.

Semi-Permanent Mobile Food Vehicle: 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 food stuffs of any kind that parks for more than twenty (20) minutes daily for more than fourteen (14) days in one calendar year at one or more locations within the city. For the purposes of this Section, a mobile food vehicle shall also include any trailer or wagon equipped and used as described in this paragraph and pulled by a vehicle.

The following are not subject to this Section: (1) Any person engaged in vending conducted in connection with (i) the operations of a state-certified farmers market, (ii) an event authorized by a special event permit or other permit or entitlement issued by the City of Lemoore, such as an authorized street fair, or (iii) an event at a sports complex, little league facility, school facility or recreational facility if the vendor is in partnership with the organization conducting the event and is located on the site of the event; or (2) any person not exceeding the time thresholds listed in paragraph one of this definition.

C. Application: The applicant for a semi-permanent mobile food vehicle shall submit an administrative review application on a city form, prescribed by the Planning Commission, along with applicable fees to the Planning Department for processing following the below requirements and, to the extent not in conflict with the below requirements, the process identified under Section 9-15A.

D. Standards, Conditions, Requirements: Before approving an application for a semi-permanent mobile food vehicle, the Planning Director shall find and determine that the proposed semi-permanent mobile food vehicle and the vendor will comply with the following standards, conditions and requirements and shall be valid for one (1) year:

1. The vehicle must be located on a private "developed site" zoned CH - Highway Commercial, CC - Central Commercial, CS - Commercial Service use, Mixed-Use, or ML -Light Industrial use, subject to the following:

a. The owner(s) of the property shall give permission to use the site and required restroom facilities for food service workers within two hundred feet (200') of the vehicle and access to such must be available during mobile vehicle's business hours. Portable toilets shall not be allowed.

b. Vendor shall not use or permit use of parking spaces on the site if doing so will adversely affect the on-site parking available for the primary use of the site as determined by the Planning Director.

- c. Vendor cannot interfere with or create hazards for vehicular or pedestrian access, aisles, circulation, driveways, or fire lanes and hydrants.
 - d. Tables, chairs, shade structures and trash cans for patrons shall be maintained in a safe and clean manner at all times and removed nightly if used.
 - e. Hours of operation at an approved semi-permanent location shall be no earlier than 7 a.m. and no later than 10 p.m., and the vehicle shall be moved each night to an area not open to public view.
 - f. Food products must be stored at a Commissary approved by the Kings County Health Department.
 - g. Vendor shall have adequate lighting to ensure customer safety either on the vehicle or at the location of the vehicle during business hours.
 - h. There shall be no more than one other semi-permanent mobile food vendor or permanently located vendor of produce, prepared, or prepackaged food located within one thousand feet (1000') of the site.
2. Vendor shall obtain, display, and keep a current City of Lemoore Business License and comply at all times with this Section as well as Title 3, Chapter 5, "Food Handling", and Title 6, Chapter 4, "Stopping, Standing or Parking," including Section 6-4-10, "Peddlers and Vendors," of the Lemoore Municipal Code, and all other applicable federal, state and local laws and regulations.
 3. Mobile food vehicle 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 consistency with applicable building and zoning regulations. Any cords or plugs used from the vehicle to electrical sources shall be appropriately covered or tied down to not cause trip hazards and may not be strung across parking lots.
 4. All Kings County Health Department permits/license must be obtained displayed and kept current at all times and submitted with the administrative review application.
 5. Applicants and the subject mobile food vehicles shall comply with all California Retail Food Code provisions (California Health & Safety Code Sections 13700 et seq.), including more specifically but not limited to Chapter 10, Mobile Food Facilities, of such Code and Health & Safety Code Section 114250.1 regarding the availability of adequate toilet facilities for use by food service personnel within two hundred feet (200') of unit location.
 6. Vendor shall display, in plain view and at all times, current permits and licenses in or on the mobile food vehicle.
 7. Daily cleanup and disposal of waste products shall be done at an approved Commissary with proof of such being provided when renewing the annual business license. The vendor shall not discharge or allow discharge of items from any mobile food vehicle onto the sidewalk, gutter, storm inlets, or streets. The vendor shall not dispose or allow the disposal 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. At least two such vendor-provided trash containers shall be available on site. Violation of this provision can lead to the suspension and/or revocation of the permit to do business pursuant to Section 3-5-11 of this Code.

8. The vendor shall install and maintain signage in a visible location indicating that loitering is not permitted and that customers may only remain on the site to pick up and, if applicable, consume their orders. The vendor shall be responsible for ensuring that customers comply with this no loitering provision.

In approving an application for a semi-permanent mobile food vehicle, the Planning Director shall impose on the vendor such conditions and requirements as may be necessary to ensure compliance with the standards, conditions and requirements in this subsection 9-3-12D and other provisions of the Lemoore Municipal Code.

E. Appeals: The applicant or owner of any property in which the semi-permanent mobile food vehicle may be located, if not satisfied with the Planning Director's decision, may appeal it to the Planning Commission. The appeal shall be made within twenty (20) days of the decision and placed on the Commission's next regular meeting. The Commission shall review the findings and recommendations of the Planning Director and shall act to uphold, modify or disapprove the recommendations of the Planning Director.

F. Violations and Enforcement:

1. The provisions of this Section shall be enforced as provided in Chapter 15 of Title 9 of this Code.
2. Without limiting subsection F.1 above, any person violating any provision or failing to comply with any of the requirements of this Section is subject to Section 9-15-3 of the Lemoore Municipal Code.

G. Applicability: The provisions of this Section shall be applicable to all mobile food vehicles and vendors described herein whether the mobile food vending activities were established before or after the effective date of the ordinance enacting this Section. Those existing as of the effective date of the ordinance shall have twelve (12) months after the effective date to comply with the provisions of this Section.

Section 4: This Ordinance shall take effect thirty (30) days after its adoption.

Section 5: The City Clerk is authorized and directed to cause this Ordinance or a summary of this Ordinance to be published once in a newspaper of general circulation published and circulated in the City of Lemoore, within fifteen (15) days after its adoption. If a summary of this Ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed Ordinance to be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which the Ordinance is adopted and again after the meeting at which the Ordinance is adopted. The summaries shall be approved by the City Attorney. The City Clerk is further directed to cause this Ordinance to be codified after its adoption.

The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Lemoore held on the _____ day of , 2009 and was passed and adopted at a Regular Meeting of the City Council held on the _____ day of , 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

John F. Murray, Mayor

ATTEST:

Nanci C.O. Lima, CMC
City Clerk