

ORDINANCE #2015- 04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON, CALIFORNIA, APPROVING A NEW MUNICIPAL CODE CHAPTER 19.37 TO PROVIDE REGULATIONS ON THE OPERATION OF MOBILE SERVICES AND VENDORS IN THE CITY OF AMERICAN CANYON

WHEREAS, the City's 2014-2015 Implementation Action Plan states a goal of providing opportunities for emerging/nontraditional retail business models; and

WHEREAS, mobile services and vendors allow for ongoing product innovation and entrepreneurs with limited access to capital to enter the marketplace; and

WHEREAS, mobile services and vendors may nonetheless compete with existing brick-and-mortar businesses, many of which operate on narrow profit margins; and

WHEREAS, the City of American Canyon does not have regulations specific to the permitting and operation of mobile services and vendors; and

WHEREAS, improper management and operation of a mobile service or vendor may result in disturbances to the community and traffic or other safety hazards; and

WHEREAS, by establishing regulations on the operation, the proposed ordinance is intended to allow mobile services and vendors to operate in specified zoning districts and manners compatible with community standards and quality of life; and

WHEREAS, on February 26, 2015, the Planning Commission of the City of American conducted a public hearing and unanimously recommended City Council approval of the ordinance; and

WHEREAS, a public hearing was held by the City Council of the City of American Canyon on March 17, 2015 after due notice was given as required by law, at which time oral and documentary evidence was introduced along with the written recommendation of the Community Development Department staff of the City of American Canyon.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: CEQA. The adoption of the proposed ordinance is not a project that has the potential for causing a significant effect on the environment and therefore is not subject to review under the California Environmental Quality Act (CEQA). In addition, the proposed ordinance amendment is exempt under the definition of Project in Section 15378 (b)(3) in that it concerns general policy and procedure making.

SECTION 2: American Canyon Municipal Code Chapter 19.37, Mobile Services and Vendors, is hereby added to the Municipal Code:

Chapter 19.37 MOBILE SERVICES AND VENDORS

Sections:

- 19.37.010 Purpose
- 19.37.020 Definitions
- 19.37.030 Operational requirements
- 19.37.040 Mobile service and vendor permit
- 19.37.050 Renewal Permit
- 19.37.060 Exemptions
- 19.37.070 Penalty for violation
- 19.37.080 Permit Denial
- 19.37.090 Appeal

19.37.010 Purpose.

The purpose of this chapter is to establish policies that support the safe operation of mobile services and vendors within American Canyon. Mobile services and vendors help foster job growth, serve as incubators for entrepreneurs seeking to establish a brick-and-mortar business, help promote a sense of identity and community, and provide additional product and service choices for residents and consumers.

19.37.020 Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Class 1 mobile vendor”, also referred to as an “ice cream truck”, means a motor vehicle engaged in the curbside vending or sale of frozen or refrigerated desserts, confections, ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks, primarily intended for the sale to children under 12 years of age. Class 1 mobile vendors typically roam residential neighborhoods in search of customers.

“Class 2 mobile vendor”, also referred to as a “food truck”, means any vehicle, as that term is defined in the California Vehicle Code, which is equipped and primarily used for preparing, cooking, and selling food. These vehicles are not necessarily limited to edible items and may also sell non-food sundries as an accessory item to food sales. This type of vendor may roam among sites for less than one hour per stop or may remain in one location for one hour or more.

“Class 3 mobile vendor” means a mobile business that sells non-edible goods or provides services to multiple customers in a business day at a single location. Examples of this type of vendor include mobile florists, mobile salons, or mobile dog grooming. All Class 3 vendors must obtain a Temporary Outdoor Promotion Permit (Municipal Code Section 5.05.045).

“Fixed location” means a place on private property that the mobile vendor is parked for more than one hour.

“Mobile vendor” means an individual or business that owns or operates a mobile service or vending vehicle.

“Operator” means any person or entity that:

1. Owns, controls, manages, and/or leases a mobile service or vending vehicle; and/or
2. Contracts with any person(s) to drive, operate, prepare food in, and/or vend from, a mobile vending vehicle; and/or
3. Drives, operates, prepares food in, or vends from, a mobile vending vehicle.

“Mobile vending vehicle” means any vehicle that is used for the purposes of providing sales of products or services as defined in this chapter.

“Person” means any natural person, firm, partnership, association, corporation, or other legal entity of any kind or nature.

“Permit” means the business license or entitlement approval required under this chapter any other chapter of this code.

“Restocking” means the transfer of food, goods or merchandise to a mobile vending vehicle from any other person or vehicle and includes, but is not limited to, loading and delivery of food, goods and merchandise.

“School” means any public and/or private school in which instruction is given in any or all grades through grade twelve (12).

“Vend” or “vending” means soliciting, displaying, or offering produce, prepared or unprepared food, non-food sundries, and/or services of any kind for sale or barter or exchange from a mobile vending vehicle in a public place within the city. “Vend” or “vending” includes the movement or standing of a food vending vehicle for the purpose of searching for, obtaining and/or soliciting retail sales or produce, prepared food, or non-food sundries, including, but not limited to, goods, wares, or merchandise.

19.37.030 Operational requirements.

A. The following table defines the general operation requirements:

Table 19.37.030

Requirement	Class 1 – Ice Cream Trucks	Class 2 – Food Trucks	Class 3 – Other Mobile Vendors
Days of the week	All	M – F (may be extended to Saturday and Sunday with approval of a Temporary Outdoor Promotion Permit)	All
Time of operation	9:00 a.m. – 8:00 p.m. or sunset, whichever occurs first	6:00 a.m. – 6:00 p.m. (may be extended at the discretion of the Community Development Director)	7:00 a.m. – 7:00 p.m. (or as defined by Temporary Outdoor Promotion Permit)
Maximum time in one location	10 minutes	4 hours	6 hours
May occupy a fixed location	No	Yes	Yes
Permitted zones	All	Light Industrial (LI), General Industrial (GI) with Mobile Service Vendor (MSV) Permit – other zoning districts with approval of a Temporary Outdoor Promotion Permit.	All zoning districts require approval of a Temporary Outdoor Promotion Permit.
Cleaning requirement	50' ¹	50' ¹	50' ¹
School limitation	No sales citywide from 15 minutes before and until 1 hour after the end of the public school day.	No limitation.	No limitation.
Vending allowed in public right-of-way	Yes	No	No
May use amplified sound	Yes, but amplified sound must cease when vehicle is stopped to sell ice cream	No	No

¹ Fifty feet represents the minimum cleaning radius, but Temporary Outdoor Promotion Permits (Municipal Code Section 5.05.045) may be required to extend this area.

B. All operators shall comply with the following additional regulations:

1. Each operator shall conspicuous display a City of American Canyon business license inside each mobile vending vehicle.

2. All mobile service and vendor staff shall carry legal identification.
3. Every mobile vending vehicle shall permanently affix the name, address, and telephone number of the business on the left and right sides of the vehicle with four (4) inch letters that contrast in color to the vehicle paint.
4. Vending may not occur until the mobile vending vehicle has been brought to a complete stop and lawfully parked (Vehicle Code 22456).
5. A mobile vending vehicle may not be restocked while the vehicle is on any public or private street.
6. A mobile vending vehicle may not receive electrical power or other utilities from any public or private property.
7. Class 1 and Class 2 mobile vendor operators shall conspicuously display a food handling permit or other health permit as required by law inside each food vending vehicle.
8. All mobile vendors shall be equipped with refuse containers large enough to contain all trash and refuse generated by the operation of such vehicle. The operator of the mobile vending vehicle shall pick up all trash and refuse generated by the operator's vending during the time the vehicle is stopped, that is within not less than a fifty (50) foot radius of the vehicle, before the vehicle is moved, or throughout the day as necessary to maintain clean surroundings.

19.37.040 Mobile Service and Vendor Permit.

A. A person desiring to engage in a mobile vendor operation shall obtain a mobile service and vendor permit. Each mobile vendor and services applicant shall submit the following information:

1. A written application.
2. An application fee.
3. A City of American Canyon business license.
4. A copy of a current Napa County Environmental Health permit, if applicable.
5. Current business mailing address.
6. Legal names of the mobile vendor and all persons operating or vending or providing service out of the mobile vending vehicle.
7. Proof of current vehicle registration.
8. Proof of automobile insurance as required by the Vehicle Code.
9. A photograph of the front, rear and each side of each mobile vending vehicle.
10. Dimensioned sample or rendering of proposed signage.
11. A signed affidavit agreeing to the Operational Standards in section 19.37.030.

B. If the mobile vendor is proposed at a fixed location, the mobile vendor shall provide the following in addition to the submittal requirements in section A above:

1. A site plan depicting the location of the primary use and operation of the mobile vending vehicle.
2. A table identifying the number of required parking spaces, and the number of provided parking spaces.
3. A note identifying the hours and days of week of operation.
4. An affidavit in a form approved by the city from the property owner (if other than self) permitting the mobile food vendor to locate on the site and allowing the use of onsite restroom facilities.

C. Class 2 mobile vendors shall also provide written proof of a current contract with a commissary.

19.37.050 Renewal Permit

A. Each mobile vendor shall submit the following information for an annual mobile service and vendor permit renewal:

1. A written application.
2. An application fee.
3. A City of American Canyon business license.
4. A copy of a current Napa County Environmental Health permit, if applicable.
5. Current business mailing address.
6. Legal names of the mobile vendor and all persons operating or vending out of the mobile vending vehicle.
7. Proof of current vehicle registration
8. Proof of automobile insurance as required by the Vehicle Code
9. A photograph of the front, rear and each side of each mobile vending vehicle (if vehicle or graphics on the vehicle have changed in the past year).
10. Dimensioned sample or rendering of proposed signage (if vehicle or graphics on the vehicle have changed in the past year).
11. A signed affidavit agreeing to the Operational Standards in section 19.37.030.
12. Class 2 mobile vendors must also provide written proof of payment to a commissary within the prior 12 months.

19.37.060 Exemptions.

The following are exempt from the requirements of this chapter as specified below.

A. Mobile vending conducted in connection with:

1. The operations of a state certified farmers' market.
2. An event authorized by a temporary outdoor promotion permit, encroachment permit, or other permit or entitlement issued by the City, such as an authorized street fair or a design permit.
3. An event at a private school facility.
4. A public park with prior written authorization from the Parks and Recreation Director.
5. A construction site of one acre or larger with active grading or building permits.
6. A private event or party on the site of the event with no retail sale to the general public.
7. A single request for service or sales where the mobile vendor conducts no retail sales to the general public. Examples of these services include delivery vehicles, mobile windshield repair, caterers, etc. that provide deliveries or services to more than one business or residential address in the course of a business day.

19.37.070 Penalty for violation.

Violation of any provision of this chapter shall be punishable as an infraction and/or by administrative citation and penalty, including fines and/or revocation of business license and permits.

19.37.080 Permit Denial.

Any one of the following may constitute grounds for denial of a permit to operate or renewal application:

1. The proposed mobile vending activity does not comply with all applicable laws including, but not limited to, the applicable building, zoning, fire, safety, and health regulations.
2. The applicant has knowingly made a material misstatement in the application for a permit to operate.
3. The Mobile Service and Vendor Permit application and/or Renewal Permit application was incomplete.
4. The Director of Community Development concludes that such business has been, will be, or is apt to become a public nuisance or in any way detrimental to the public interest.

19.37.090 Appeal.

Any person aggrieved by any decision of the Director of Community Development made pursuant to this chapter may appeal the decision to the Planning Commission pursuant to the provisions of Section 2.04.070 through 2.04.100 of this code.

SECTION 3: Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, subsections subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional., is for any reason held to in invalid or unconstitutional.

SECTION 4: The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause a summary of it to be published in a newspaper and circulated in the City and thereupon and thereafter this Ordinance shall take effect and be in force according to law.

The foregoing Ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 7th day of April, 2015, and was passed and adopted at a regular meeting of the City Council of the City of American Canyon, State of California, by the following vote:

- MAYOR GARCIA:
- VICE MAYOR LEARY:
- COUNCIL MEMBER BENNETT:
- COUNCIL MEMBER JOSEPH:
- COUNCIL MEMBER RAMOS:


Yes
Yes
Yes
Yes
Yes



Leon Garcia, Mayor

ATTEST:


Cherri Walton, Deputy City Clerk

APPROVED AS TO FORM:


William D. Ross, City Attorney