

AN ORDINANCE

2006-06-08-0693

AN ORDINANCE AMENDING CHAPTER 13 OF THE CITY CODE OF SAN ANTONIO REVISING THE BACKGROUND CHECK PROCESS FOR MOBILE FOOD VENDORS; AND PROVIDING FOR PENALTIES.

* * * * *

WHEREAS, the City of San Antonio has received complaints about children who come into contact with mobile food vendors and food handlers in our community's neighborhoods and public right of ways; and

WHEREAS, the City of San Antonio regulates the safety of citizens on the City's public streets, sidewalks, and right of ways; and

WHEREAS, mobile food vendors and food handlers travel and/or operate on the City public streets, sidewalks, and right of ways; and

WHEREAS, it is now the City's desire to amend this ordinance to reflect the intention of the City to regulate those mobile food vendors and food handlers who may come in contact with children on the City public streets, sidewalks, and right of ways, and to provide for penalties;
NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-233(b)(9) and 13-233(b)(10) Permit Requirements., *Application*, of the City Code of San Antonio, Texas are hereby amended to revise Section 13-233(b)(9) and Section 13-233(b)(10) to read as follows, whereby added language is signified by underline and deleted language is signified by strikethrough and is bracketed:

(b) *Application*. A person seeking a mobile food vendor's unit permit from the health director shall make application on a form provided by the health director, and shall provide as part of the application:

...

~~{(9) A written statement from the San Antonio Police Department certifying that the person seeking a mobile food vendor's permit is not a sex offender registered with the Texas Department of Public Safety and that the records reviewed by the San Antonio Police Department indicate that the person seeking a mobile food vendor's permit has not been convicted of any sexual offense or any offense against a child as defined by applicable law; and}~~

(9) Any other information reasonably required by the health director; and

~~{(10) Any other information reasonably required by the health director; and}~~

(10) If the person seeking a mobile food vendor's unit permit from the health director vends on a public street, sidewalk or right of way, or travels with the person's mobile food vending unit on a public street, sidewalk or right of way to or from a location where the person vends, then the person shall provide as part of the application to the health director a written

statement from the San Antonio Police Department certifying that the person seeking a mobile food vendor's permit is not a sex offender registered with the Texas Department of Public Safety and that the records reviewed by the San Antonio Police Department indicate that the person seeking a mobile food vendor's permit has not been convicted of any sexual offense or any offense against a child as defined by applicable law.

SECTION 2. Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-233(d), Permit Requirements., *Fees*, of the City Code of San Antonio, Texas is hereby amended to revise Section 13-233(d)(6) to read as follows, whereby added language is signified by underline and deleted language is signified by strikethrough and is bracketed:

(d) *Fees*

...

(6) The fee for each written statement from the San Antonio Police Department as required in Section 13-233 ~~[(b)(9)]~~ (b)(10) shall be forty-nine dollars (\$49.00) for persons age seventeen and older and shall be paid to the San Antonio Police Department by the person seeking a mobile food vendor's permit at the time of the request for such written statement. There shall be no fee for the written statement for persons under the age of seventeen.

SECTION 3. Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-233(i), Permit Requirements., *Renewal*, of the City Code of San Antonio, Texas is hereby amended to read as follows, whereby added language is signified by underline and deleted language is signified by strikethrough and is bracketed:

(i) *Renewal.* Every mobile food vendor's unit and afoot vendor's permit shall be renewed each year in like manner as the original permit application, except that the written statement from the San Antonio Police Department required under Section 13-233~~[(b)(9)]~~ (b)(10) shall be renewed every two years from the date of issuance by the San Antonio Police Department of such written statement, with a current written statement to be provided to the health director by the permit holder every two years at the time the permit holder is seeking permit renewal.

SECTION 4. Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Sections 13-234(16) through (21), *Operation Requirements and Restrictions*, of the City Code of San Antonio, Texas are hereby amended to read as follows, whereby added language is signified by underline and deleted language is signified by strikethrough and is bracketed:

...

(16) No food vendor or food handler who meets the requirements set forth in Section 13-233(b)(10) or in [as defined in] Section 13-234(17) ~~[234]~~ shall be a sex offender registered with the Texas Department of Public Safety or shall have been convicted of any sexual offense or any offense against a child as defined by applicable law.

(17) Prior to vending, each food vendor and food handler, who vends on a public street, sidewalk, or right of way, or who travels with a mobile food vending unit on a public street, sidewalk or right of way to or from a location where the food vendor or food handler vends, shall be required to obtain a written statement issued by the San Antonio Police Department certifying

that the food vendor or food handler is not a sex offender registered with the Texas Department of Public Safety and that the records reviewed by the San Antonio Police Department indicate that the food vendor or food handler has not been convicted of any sexual offense or any offense against a child as defined by applicable law.

(18) Each food vendor and food handler who is required under Section 13-234(17) of this Article to obtain a written statement from the San Antonio Police Department must renew [the] this written statement [from the San Antonio Police Department required under Section 13-234 (17) of this Article] every two years from the date of issuance by the San Antonio Police Department of such written statement.

(19) The fee for each written statement from the San Antonio Police Department as required in Sections 13-234 (17) and (18) shall be forty-nine dollars (\$49.00) for persons age seventeen and older, and shall be paid to the San Antonio Police Department by the food vendor or food handler, as applicable, at the time of the request for such written statement. There shall be no fee for the written statement for persons under the age of seventeen.

(20) Each food vendor and food handler who vends on a public street, sidewalk, or right of way, or who travels with a mobile food vending unit on a public street, sidewalk or right of way to or from a location where the food vendor or food handler vends, shall carry a current written statement from the San Antonio Police Department, as required under Section 13-234(17) of this Article, on their person at all times while vending.

(21) It shall be unlawful for a person who has obtained a mobile food vendor's unit permit pursuant to Section 13-233, and to whom Section 13-233 (b)(10) applies, to hire or allow a food vendor or food handler [person] to vend on a public street, sidewalk, or right of way, or to travel with a mobile food vending unit on a public street, sidewalk or right of way to or from a location where the food vendor or food handler will vend, who has not first obtained a current written statement issued by the San Antonio Police Department as required by Sections 13-234 (17) and (18) of this Article.

SECTION 5. Chapter 13, Food and Food Handlers, Article IX., Mobile Food Vending, Section 13-239 *Penalty for Violation*, of the City Code of San Antonio, Texas is hereby added to read as follows, whereby added language is signified by underline:

Sec. 13-239. Penalty for Violation.

Any person who violates a provision of this article, any person who has obtained a mobile food vendor's unit permit and who does not comply with the provisions of this article, or any person who is a food vendor or food handler as defined by this article and who does not comply with the provisions of this article, shall upon conviction in the municipal court of the City of San Antonio be subject to a fine not to exceed two thousand dollars (\$2,000.00) for each offense if the court finds that the offense was committed intentionally, knowingly or recklessly, and each day shall constitute a separate offense.

SECTION 6. Section 5 of this ordinance, which creates Section 13-239 Penalty for Violation, hereby replaces Section 9 of Ordinance No. 101406 which was passed and approved by City Council on September 15, 2005 and provided for the penalty provision to be Section 13-371 of Chapter 13 of the City Code.

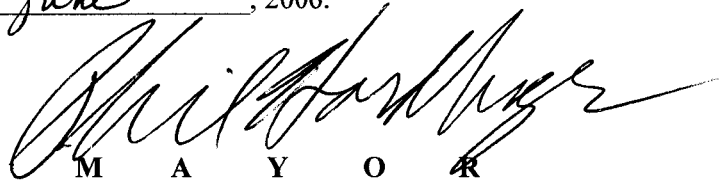
SECTION 7. The City Clerk of the City of San Antonio, Texas is hereby directed to publish this ordinance in a newspaper published in the City of San Antonio, Texas as authorized by Article II, Section 17 of the Charter of the City of San Antonio.

SECTION 8. Funds generated by this ordinance are to be deposited into the General Fund, 11001000, Internal Order 217000000028, POLICE RECORDS ADMIN-GEN RECORDS & RMC, General Ledger 4406842, Police Services Arrest Records and Searches.

SECTION 9. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

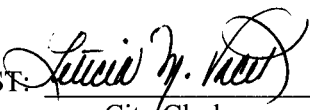
SECTION 10. This ordinance shall take effect immediately if approved by eight (8) or more affirmative votes; otherwise, this ordinance shall be effective on and after the tenth (10th) day from the date of passage hereof; except for Section 5 of this ordinance which will not take effect until five (5) days after publication of this ordinance pursuant to Section 7 herein.

PASSED AND APPROVED this 8th day of June, 2006.



M A Y O R

PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney

CITY OF SAN ANTONIO
SAN ANTONIO METROPOLITAN HEALTH DISTRICT
CITY COUNCIL AGENDA MEMORANDUM

TO: Sheryl Sculley, City Manager
FROM: Fernando A. Guerra, MD, MPH, Director of Health
SUBJECT: Changes to the Mobile Food Vending Code
DATE: June 8, 2006

SUMMARY AND RECOMMENDATIONS

The San Antonio Metropolitan Health District (SAMHD) is recommending three changes to the City Code as it applies to background checks for mobile food vendors. One amendment clarifies that all mobile food vendors that use City streets, sidewalks and/or other public right-of-ways as part of their operation must obtain a background check through the San Antonio Police Department (SAPD). This includes those mobile food vendors that sell products on City streets, sidewalks, and public right-of-ways and those that use these public thoroughfares for routine transport of their mobile food unit to a location for vending.

The SAMHD is also recommending that all background checks performed for mobile food vendors under the age of 17 be done at no charge. The experience over the past five (5) months has shown that background checks for juveniles can be done very quickly and easily by the SAPD. Providing the service free of charge would remove a potential barrier that might discourage a youth from engaging in a productive, working activity.

Finally, the SAMHD is recommending that the penalty provision which applies to the mobile food vendors in the City Code be relocated to the end of Article IX Mobile Food Vending from its current location at the end of the entire chapter pertaining to the regulation of food and food handlers. Moving this provision will make it simpler and more convenient for people to locate and reference the penalty section as needed. This relocation will not change the current penalty range that applies to mobile food vendors. The penalty for violating this ordinance shall still be a fine not to exceed \$2,000.00 for each offense and each day shall still constitute a separate offense.

BACKGROUND INFORMATION

The City of San Antonio has a process whereby all conveyances used for mobile food vending must be inspected by the SAMHD each year. Those conveyances (trucks, trailers, pushcarts, etc.) that comply with code regulations are issued a permit to operate. The cost of the permit is dependent on the type of conveyance and the food products served.

Currently, all individuals working on the mobile food vending unit must obtain written documentation from SAPD, certifying that they have never been convicted of a sexual offense, or offense against a child, and that they are not registered with the Texas Department of Public Safety as a sex offender. Mobile food vendors must carry this documentation on their person at all times when they are working and they must have it to obtain a permit for their mobile food vending unit.

Mobile food vending in San Antonio ranges from persons on foot to elaborate "kitchens on wheels". Venues for this enterprise can be city streets, sidewalks, parks, private property and other locations. After meeting with some of the merchants and businesses engaged in this industry, SAMHD recommends that the ordinance be amended to regulate mobile food vendors operating on public streets, sidewalks, and right-of-ways either to sell products or to transport their unit for vending at a fixed location. This will preserve the intent of the earlier ordinance which was to increase public safety by screening those mobile food vendors that reach their customers through the use of public thoroughfares. Mobile food vendors legally working and remaining at a single location such as a theme park or golf course will not be required to obtain a police background check.

In addition, SAMHD recommends that background checks for persons under 17, when required, be done by the SAPD at no charge. Background information on juveniles is very limited and can be readily and quickly obtained by SAPD personnel. Since the cost is minimal, SAPD is willing to provide this as a public service for these young workers.

POLICY ANALYSIS

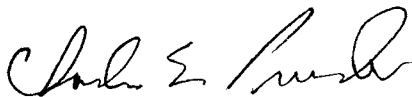
The proposed changes are in keeping with the City's policies and goals of ensuring the health, safety and welfare of the public.

FISCAL IMPACT

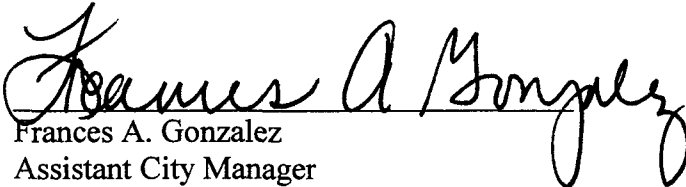
SAPD receives \$16.00 for each background check performed for individuals age 17 and above (\$49.00 fee less \$33.00 paid to state and federal agencies). The proposed change would reduce the number of background checks performed by about 200, reducing net revenues from background checks by \$3,200.00.

COORDINATION

The Health Department coordinated the proposed changes with the City Attorney's Office, the San Antonio Police Department and City Council Quality of Life Committee.

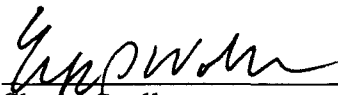


✓ Fernando A. Guerra, MD, MPH
Director of Health



Frances A. Gonzalez
Assistant City Manager

Approved for Council Consideration:



✓ Sheryl Sculley
City Manager

DO NOT TYPE IN THIS SPACE		CITY OF SAN ANTONIO			
Approval		Request For Ordinance/Resolution		Consent ☐ Individual ☐ Item No. Ord. No.	
Finance	Budget				
Legal Karmen Binka 207-8689	Coordinator				
Date: May 25, 2006		Department: Health		Contact Person/Phone #: Nichole Ledesma / 207-8689	
Date Council Consideration Requested: June 8, 2006		Deadline for Action: June 8, 2006		Dept. Head Signature	
SUMMARY OF ORDINANCE An ordinance amending Chapter 13 of the City Code of San Antonio revising the background check process for mobile food vendors; and providing for penalties. Council Memorandum Must be Attached To Original					
Other Depts., Boards, Committees Involved (please specify): San Antonio Police Department; San Antonio Metropolitan Health District; City Attorney's Office; City Manager's Office; City Council Quality of Life Committee.					
Contract signed by other party Yes No X					
FISCAL DATA (If Applicable)					
SAP Contract # Amount Expended Fund 11001000 SAP GL Account Funds Center 1706100000			Funds/Staffing Budgeted Yes ☐ No ☐ Positions Currently Authorized Yes ☐ No ☐		
*Cost Center 1706100002 *Internal Order No. 217000000028 *WBS (Capital Proj.) *SAP GL No. 4406842			Impact on future O & M		
*(Fill out only the field that is appropriate to your council action.)			If positions added, specify Class and Job No.		
Comments: CONSENT AGENDA			Please submit 3 copies with your original		