

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 8 TO ADD CHAPTER 8.70, AND AMENDING CHAPTER 8.56, SECTIONS 8.56.010, 8.56.030, AND 8.56.040; AND AMENDING TITLE 12, CHAPTER 12.56, SECTION 12.56.010, AND REPEALING TITLE 12, CHAPTER 12.76 OF THE STOCKTON MUNICIPAL CODE TO COMPLY WITH STATE LAW REGARDING STREET AND SIDEWALK VENDORS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. FINDINGS AND INTENT.

On, or about, September 17, 2018, and September 23, 2022, the California Legislature approved, and the Governor signed, Senate Bill 946 and 972, respectively, which created new provisions for the licensing, activities, and enforcement regulations relating to Street and Sidewalk Vendors throughout the State, regardless of whether the City is a General Law or Chartered City. The provisions created by these Bills prohibit a municipality from forbidding Street and Sidewalk Vendors from operating, within certain limitations, in public parks and upon public sidewalks. With an ever-growing number of Street and Sidewalk Vendors operating within the City since the new laws took effect, the City Council finds it necessary to incorporate rules and regulations to ensure vendors are providing their services in a safe and sanitary manner, safeguard the health and safety of the general public being served by vendors, and create standards to protect public resources.

The proposed creation of this Chapter, and the amending and repealing of other existing code, will bring the City into compliance with changes in State Law, give Street and Sidewalk Vendors clear and concise direction for providing their services in accordance with State and Local regulations, and provide methods to preserve the public's health, safety and enjoyment of public grounds where vendor activities occur. Creation of this Chapter will also afford the City the ability to mitigate some of the negative impacts to public parks that will be impacted by pedestrian traffic and activities that were not originally intended, or designed, for such locations. The provisions of this chapter are intended to ensure compliance with Senate Bill 946 (signed into law on September 17, 2018), and Senate Bill 972 (signed into law on September 23, 2022).

SECTION II. AMENDMENT OF CODE.

Title 8, Chapter 8.70, titled, "SALE OF FOOD PRODUCTS AND MERCHANDISE BY STREET AND SIDEWALK VENDORS" is added to the Stockton Municipal Code and shall read as follows:

8.70.010 Purpose.

- A. Regulation of the sale of food and merchandise on public sidewalks will benefit the City by promoting entrepreneurship, while ensuring the protection of the public health, safety, and welfare.
- B. The City Council finds that the vending of produce, meat, and other prepared or prepackaged foods, goods, and wares on sidewalks, the public right-of-way, and parks poses special conditions that may potentially impact the public health, safety, and welfare of the residents of the City of Stockton. The requirements set forth by this Chapter are necessary to ensure vending operations do not adversely impact the public welfare, that food vendors adhere to State and County public health requirements, and there are free and safe flows of vehicular and pedestrian traffic in the public right-of-way where vendors are conducting their business.
- C. The city council further finds that parks and nature areas are a finite and valuable resource within the city. Public parks are designed and maintained to support the recreational activities for which they were intended and have inadequate facilities such as restrooms, water, sanitary services, and pedestrian and vehicular traffic flow necessary to support commercial vending activities. It is the purpose and intent of the city council, in enacting this Chapter, to protect the health, safety, and welfare of the public by regulating the use of parks, nature areas, and recreation facilities, to ensure the public's use and enjoyment of natural resources and recreational opportunities and prevent an undue concentration of commercial activities that unreasonably interfere with the intended use of the parks, but not infringe on a person's right to pursue economic opportunities afforded to them by law.
- D. Street and Sidewalk Vendor Business Licensing requirements and regulations are located in SMC 5.106 et seq.

8.70.020 Definitions.

The definitions herein are for the purpose of clarifying terms within this Chapter.

"Compact Mobile Food Operation" means a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.

"Designated Location" shall mean a specific location on a public sidewalk, park, or venue which has been allocated a permit by the City of Stockton for exclusive use in a vending operation.

"Food" shall mean any type of edible substance or beverage.

"Health Officer" shall mean the San Joaquin County Health Officer, or the assigned City Health Officer, and their designated personnel.

"Merchandise" shall mean any tangible items or goods that are not food.

"Park" shall mean the grounds areas of any public park, recreational facility, or venue owned or operated by the City of Stockton.

"Permit" shall mean a permit or license issued by the City of Stockton authorizing a vendor to conduct business within the city limits, as allowed by this Chapter and SMC 5.106.

"Peddler" see 'Vendor'.

"Person or Persons" shall mean one (1) or more natural persons, individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs or organizations composed of two (2) or more individuals (or the manager, lessee, agent, servant, officer or employee of any of them), whether engaged in business, nonprofit or any other activity.

"Sidewalk" shall mean any surface in the public right-of-way intended for use by pedestrians, including walkways and pathways.

"Sidewalk/Street Vendor" shall mean a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk, pedestrian path, or park, including all roaming sidewalk vendors, stationary sidewalk vendors and compact mobile food operations.

"Stationary Sidewalk Vendor" shall mean a sidewalk vendor who vends from a fixed location.

"Street" shall mean the portion of any county, state or public road or highway within the City of Stockton, which is utilized for motor vehicle or bicycle traffic, including any improved shoulder adjacent to traffic lanes.

"Roaming Vendor" shall mean a sidewalk vendor who moves from place to place and stops only long enough to complete a transaction.

"Vend" or "Vending" means the sale of any goods, wares, merchandise, prepared, prepackaged, or unprepared, unpackaged food or foodstuffs of any kind from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk, other pedestrian path, or park.

"Vendor" shall mean any person, business, organization, or establishment that sells merchandise or food products on the public right-of-way or a park. This includes any peddler as defined in SMC 5.08.260.

"Vendors Permit or License" shall mean a permit issued pursuant to the provisions of this Chapter to engage in sidewalk, street, or park vending activities.

"Venue" shall mean any location owned by or operated by the City of Stockton.

SMC 8.70.030 Regulations of Sales.

It shall be unlawful for any person to vend, or attempt to engage in vending, or conduct any business for the purpose of vending upon a public sidewalk, other pedestrian path, park, or public recreational area within the City of Stockton except in accordance with all applicable provisions of this Chapter.

SMC 8.70.040 Business License and Health Permit Requirements.

- A. Any person, business, or organization desiring to engage in vending, as defined by this Chapter, shall submit a written application for a business license to the city manager or designee in a form acceptable to and with all fees and supporting information required by the City of Stockton pursuant to SMC 5.04, SMC 5.16, and SMC 5.106.
- B. Any vendor that sells food products shall obtain a permit pursuant to any State of California and/or the San Joaquin Department of Environmental Health requirements. If said permit(s) are required, a copy of the permit(s) shall be submitted at the time of application of a City of Stockton business license.
- C. The sidewalk vendor shall display, in plain view at all times, a current business license and any required County Health Permit and applicable inspection stickers in or on their pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.
- D. Any vendor found to be operating without having first obtained a business license, or within a park without having paid a public property use fee pursuant to SMC 8.70.050, may be assessed an administrative fine as provide in SMC 8.70.110.B.
- A.E. A vendor permit may be suspended or revoked pursuant to SMC 8.70.110.A.4 and SMC 5.106.

SMC 8.70.050 Public Property Use Fee.

Any vendor who conducts, or plans to conduct, vending activities upon any portion of a park, or a sidewalk adjacent to any park, shall pay to the City of Stockton a Public Property Use Fee in the amount as determined by resolution of the city council from time to time. Public Property Use Fees shall be payable at the time business license fees are due. Should a vendor decide after having already obtained a business license without paying to operate in a park or sidewalk adjacent to a park, the vendor shall pay to the City of Stockton, in the full annual amount, the cost of the use fee prior to operating thereon. The purpose of the fees shall be to mitigate the effects of additional and unordinary traffic upon landscaped park surfaces and the increased use of park systems and facilities by persons that otherwise would not be using those facilities, as

well as the use of the park and its facilities by vendors themselves; a use which was never originally intended, or designed, for such locations. The proceeds from this use fee shall be allocated to the Public Works Department for the purposes of addressing the additional costs of maintenance, repair, and replacement of damaged landscaping, sprinklers, and other affected ancillary systems and facilities. Any vendor found to be operating in a location described herein without having paid the required use fee shall be guilty of a violation of this Section.

SMC 8.70.060 Vending Premise and Equipment Conditions and Requirements.

- A. Any vending cart, pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance shall not exceed ten feet by ten feet (10' x 10') in dimension and, when vending in a park, auxiliary equipment associated with a vending activity shall not impede upon a park surface more than ten feet (10') from the edge of any adjacent sidewalk and shall not be attached or affixed to any lamp post, parking meter, picnic table, fire hydrant, tree, plant, bench, or trash can.
- B. No vending shall prohibit mobility upon the right-of-way in accordance with the Americans with Disabilities Act (ADA).
- C. No vending activity shall encroach on private property without written consent of the property owner.
- D. No vending activity shall be conducted on a sidewalk unless there is a five foot (5') clear space for pedestrian passage.
- E. No person shall install, use, or maintain any vending equipment that projects onto, into, or over any sidewalk when such installation, use, or maintenance endangers the safety of persons or property, or when such site or location is being used for public utility purposes, or other governmental use.
- F. No sidewalk vendor shall obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley, or any other public place, by causing people to congregate at or near the place where goods, wares, foods, or merchandise of any kind are being sold or offered for sale.
- G. No cords, hoses, extension cords, pipes, or other objects may lie on or across any portion of a sidewalk, or vendor premise walkway in a manner that may cause a trip hazard.
- H. When a canopy is used, it shall not exceed ten feet by ten feet (10'x10'), shall be temporary in nature, and shall be installed in a manner that high winds will not dislodge the cover from the premise, without the use of stakes, rods, or other devices that penetrate landscaped areas when installed on park grounds. No canopy, cover or other form of overhang shall be erected, or rest, upon the required five feet (5') of clear space required for pedestrian passage. Tents, canopies, or any other covering used, of any size, where cooking with an open flame is being conducted, shall not be accessible to the public, shall have all

required labeling, and shall comply with all California Fire Code listing requirements.

- I. No tables, chairs, fences, or other site furniture or structures (permanent or otherwise), or any freestanding signs shall be permitted on or adjacent to the premise, except for tables and/or stands to display products, and chairs for not more than the number of vendors and/or operators on site for the purpose of operating the vending activity. Any advertisement of merchandise shall be attached to the bending cart, pushcart, stand, display, pedal driven cart, wagon, showcase, merchandise rack, or other non-motorized conveyance.
- J. All vending operations shall be self-sufficient, and no vendor shall connect any water, electrical, or mechanical lines, cords, hoses, or pipes to any utility owned or controlled by the City of Stockton, or to services on private property regardless of the vendor having written consent to conduct business thereon. This includes, but is not limited to, connections to receptacles, spickets, transformers, generators, and gas connections.
- K. All vending operations shall be equipped with refuse containers large enough to contain all refuse generated by the vending operations. Vendors shall pick up all refuse generated by such operation within a twenty-five-foot (25') radius of the operation before the vendor changes location and/or discontinues business for the day. No vendor shall dispose of any trash or refuse in any public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such vendor.
- L. Vendors using portable generators shall be restricted to a maximum fuel capacity of not more than sixty (60) gallons for those types of generators using diesel fuel and ten (10) gallons for those types of generators using gasoline. Generators shall be maintained at a minimum distance of ten feet (10') from any combustible materials.
- M. Vendors who incorporate open-flame and/or electric cooking or heating operations shall ensure the equipment complies with the California Fire Code and is listed with an approved certification from a nationally recognized testing agency such as UL or FM. Vendors using unlisted equipment can be cited under the California Fire Code, regardless of the provisions of this ordinance.
- N. Unless written authorization has been obtained from the City of Stockton Fire Department, the use of open-flame devices and equipment shall be prohibited.
- O. Other than clean water, no vendor shall discharge or release any items or materials, whether they be solids or liquids, onto the sidewalk, street, gutter, storm drain, or upon any public or private property.
- P. All vendor operations shall comply with any California Health and Safety Code and San Joaquin County Health Department permit requirements regarding the availability of adequate toilet, handwashing facilities, and equipment sanitation for use by food service personnel.

Q. No vendor shall drive or park any vehicle or trailer on a sidewalk or landscaped area of a park or any landscaped portion of private property.

R. No vendor shall sell alcohol, marijuana, adult-oriented material, tobacco products, products that contain nicotine or any product used to smoke/vape nicotine or marijuana.

S. No vendor shall conduct business through the passenger compartment or bed of a truck that is parked on a public right-of-way or public parking lot.

T. No vendor shall conduct transactions with persons in moving vehicles or vehicles illegally parked or illegally stopped in the public right-of-way.

A-U. All vendors are subject to the provisions of the State of California Vehicle Code and shall not obstruct the flow or pattern of traffic on a public right-of-way when loading and unloading merchandise from or into their vehicle.

V. All vendors are subject to the provisions of the California Fire Code, including, but not limited to, the following:

1. Vendors shall not create an obstruction to fire lanes and/or fire apparatus access roads.
2. Fire lanes shall have a minimum twenty foot (20') clear width and always remain completely unobstructed.
3. For specific types of vendor operations, approved portable fire extinguishers complying with California Fire Code Section 906 shall be required and placed in locations approved by the Fire Code official.

W. No vendor shall interfere in any way with anyone engaged in an activity within a park that is not directly associated with the street vendor.

X. No vending operation shall be left unattended or stored on public property.

Y. No vendor shall emit a noise that constitutes a nuisance pursuant to the Stockton Municipal Code, Chapter 8.20 et seq.

Z. Upon request of any police officer, peace officer, community service officer, health officer, code enforcement officer, or any other public official assigned for the purpose of enforcing any portion of this Chapter, a vendor shall produce a valid form of identification.

8.70.070 Restricted Vending Locations.

A vendor may locate and operate upon a public sidewalk, pedestrian path, public park, or other public area, subject to the following conditions:

A. No vendor shall operate within one thousand feet (1,000') of:

1. An area designated for a temporary special permit issued by the City of Stockton provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the City of Stockton's temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable. For purposes of this paragraph, a temporary special permit is a permit issued by the City of Stockton for the temporary use of, or encroachment on, the sidewalk or other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including, but not limited to, filming, parades, or outdoor concerts. A prohibition of sidewalk vendors pursuant to this paragraph shall only be effective for the limited duration of the temporary special permit.
2. A permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that Chapter. A "swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

B. No vendor shall operate within three hundred feet (300') of:

1. Any freeway or highway entrance or exit.
2. Any portion of a public or private golf course.
3. Any portion of Banner Island Ballpark, Adventist Health Arena, Bob Hope Theater, Weber Point, or Civil Auditorium, or those facilities where they are located as the name may change from time to time.
4. Any designated Transportation Center (bus, train, trolley, etc.).
5. Any portion of a school site prior to 4:00 p.m. on any day when the school is in session.
6. Any park, venue, or facility owned or operated by the City of Stockton where there exists a signed agreement for concessions that exclusively permits the sale of food or merchandise therein to one or more concessionaire.
7. Any food or merchandise establishment during that establishment's regular hours of business.

C. No vendor shall operate within one hundred feet (100') of:

1. Any entrance of a recreational facility, library, youth service center, or senior center.
2. Any building, bathroom, or playground within a park.
3. Any controlled or uncontrolled intersection or alley entry.

4. Any automated teller machine (ATM).
5. The entry of any funeral parlor, chapel, mortuary, or any other type of business operating for the purpose of honoring and/or celebrating a death, between one hour prior to and one hour after the scheduled time of the service, without the expressed permission of the person(s) in control of the facility.

D. No vendor shall operate within fifty feet (50') of:

1. Any "No Parking" Zone.
2. Any fountain, statue, monument, or art installation.
3. Any bus stop, bus shelter or taxi stand.
4. Any entry or exit from a parking lot, parking garage, strip mall, or shopping center.
5. Any marked pedestrian crossing.
6. Any fire hydrant.
7. Any athletic field or court located within a park as defined herein.

E. No vendor shall operate within ten feet (10') of:

1. Any other vending or food wagon operation.

F. No vendor shall conduct business on, or at:

1. Any park, venue, or facility owned or operated by the City of Stockton where there exists a signed agreement for concessions that exclusively permits the sale of food or merchandise therein.
2. Other than on an adjoining sidewalk or area designated in Section 8.70.060.A, no vending shall be conducted on any pathway, sidewalk, or other area, beyond the entrance of a park or venue owned or operated by the City of Stockton.
3. Any parking stall or designated parking area.
4. Any City of Stockton maintenance facility or storage area.
5. Any area within twenty-five feet (25') of a public street curb that has been designated by the City as a yellow, white, or blue zone.
6. Any tree well or planting strip.
7. Any area zoned exclusively residential, excluding designated public parks or park space.

8.70.080 Exemptions.

- A. Any person engaged in vending conducted in connection with the operations of a state-certified open-air market or an authorized street fair or event under a special event permit, lease, real property license, agreement, or other entitlements issued by the City of Stockton.
- 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.

C. This chapter shall not apply to the sale or distribution of any newspaper, flier, or handbill.

8.70.090 Hours of Operation.

In addition to the provision already stated within Chapter 8.70, a sidewalk vendor must also comply with regulations specific to the following types of land uses:

A. Residential Use Area

1. Other than roaming vendors, vending is prohibited in areas zoned exclusively residential. This provision does not apply to designated parks or park spaces located in areas zoned exclusively residential.
2. Roaming vendors shall limit hours of operation from 8:00 AM to 5:00 PM of any given day.

B. Commercial Use Area

1. Permitted hours of operation shall not begin any earlier or continue any later than the normal business hours of any other business or use on the same street.
2. No vendor shall conduct operations within three hundred feet (300') of a residence located within a commercial zone.

C. Industrial Use Zone

1. Permitted hours of operation shall not begin any earlier or continue any later than the normal business hours of any other business or use on the same street.
2. No vendor shall conduct operations within three hundred feet (300') of a residence located within a commercial zone.

D. Public Parks

- A. No vending shall be conducted within a park except during the park's posted operational hours. If the park has no posted operational hours, vending operation shall not commence prior to sunrise and shall be completed no later than sunset of that same day.

SMC 8.70.100 Applicability of Regulations to Existing Businesses.

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 enacting this Chapter into law.

SMC 8.70.110 Administrative Penalties.

In accordance with the provisions set forth in the State of California Government Code, section 51039, administrative penalties may be assessed as follows:

A. Violations of SMC 8.70.060 through SMC 8.70.090 may be assessed:

1. An administrative fine not exceeding one hundred dollars (\$100) for a first violation.
2. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.
3. An administrative fine not exceeding four hundred dollars (\$400) for each additional violation within one year of the first violation.
4. Upon the fourth violation within one year of the first violation, the vendor permit may be suspended for the remaining term of the permit.

B. Violations of SMC 8.70.040 and SMC 8.70.050 may be assessed:

1. An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
2. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.
3. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.
4. Upon proof of a valid permit having been issued the administrative fines set forth in this paragraph shall be reduced to the administrative fines set forth in paragraph A of this Section, respectively.

C. Failure to pay an administrative fine pursuant to this Section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in paragraphs A and B shall be prohibited.

SMC 8.70.120 Ability to Pay Determination.

In accordance with the provisions set forth in Government Code, section 51039(f) the City of Stockton shall take into consideration a person's ability to pay an administrative fine as follows:

- A. Any fine issued under this chapter will be accompanied by a notice of and instruction regarding a person's right to request an ability-to-pay determination. A person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a collection program.
- B. If a person is receiving public benefits under California Government Code section 68632(a), or has a monthly income which is 125 percent or less than the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services, the person's administrative fine is limited to twenty percent (20%) of the amount assessed.
- C. The City of Stockton may also take the following actions:
 - 1. Allow the person to complete community service in lieu of paying the total administrative fine.
 - 2. Waive the administrative fine.
 - 3. Offer an alternative disposition.

SMC 8.70.130 Enforcement.

- A. The provisions of this Chapter shall be enforced by the City of Stockton, Police Department, Neighborhood Services Section.
- B. When applicable, provisions of the California Health and Safety Code, as it pertains to the handling, processing, serving, and other aspects of food safety, shall be enforceable, and issued notice, by the San Joaquin County Environmental Health Department or City assigned Health Officer and his/her designee.
- C. Failure to comply with the correction of a violation previously cited by the San Joaquin County Environmental Health Department may be cited by a City of Stockton Code Enforcement Officer in subsequent notices.
- D. Violations of the California Vehicle Code shall be enforced by the applicable law enforcement agency upon the location where the violation exists.

SECTION III. AMENDMENT OF CODE

Title 8, Chapter 8.56, Section 8.56.010 of the Stockton Municipal Code is hereby amended and shall read as follows:

8.56.010 ~~Sale of fruits, vegetables, dairy products, etc., from wagons—Unlawful.~~

~~It is unlawful for farmers, hucksters or vendors to~~ A. The sale of fruits, vegetables, fish, dairy produce and poultry ~~teand~~ display of and sell such goods, wares and merchandise to the passing public in, or from, wagons, ~~vehicles~~ or portable stands upon the streets or sidewalks of the City shall be in accordance with Chapter 8.70 of this Code.

B. The sale and display of such goods from a vehicle shall be in accordance with this Chapter.

(Prior code § 7-001)

SECTION IV. AMENDMENT OF CODE

Title 8, Chapter 8.56, Section 8.56.030 of the Stockton Municipal Code is hereby amended and shall read as follows:

8.56.030 Prohibiting sale of food for human consumption from wagons or any other vehicles within three hundred feet of any school, park or playground, etc.

It is unlawful for any person, firm or corporation owning, driving or having control of any wagon or vehicle used in or for carrying on the business of a peddler of fruits, buttermilk, milk, soda water, or any other beverage, ice cream, bread, crackers, cakes, pies, confections, sandwiches, meats, or other edibles intended for use as food for human consumption, to sell, give away, or dispose of any of the articles above named to any person or persons on any street, alley, lane, way or public place within a radius of 300 feet of any school, park, playground or City or Metropolitan Park and Recreation Commission operated recreation center whereupon the facility has an existing concession permit or special events permit as authorized by Section 8.70.080.A of this Code.

(Prior code § 7-001.2)

SECTION V. AMENDMENT OF CODE.

Title 8, Chapter 8.56, Section 8.56.040 of the Stockton Municipal Code is hereby amended and shall read as follows:

8.56.040 Exceptions.

The provisions of Section **8.56.030** of this ~~e~~CCode shall not apply to sale of beverages or foodstuffs set out in said section sold at games and events held or conducted at schools, parks or playgrounds, etc., providing a ~~written~~special events permit shall first be obtained from the City Manager.

(Prior code § 7-001.3)

SECTION VI. AMENDMENT OF CODE

Title 12, Chapter 12.56, Section 12.56.010 of the Stockton Municipal Code is hereby amended and shall read as follows:

12.56.010 Unlawful acts in public parks.

Within the limits of any park of the City and within the limits of any park, now owned or to be hereafter owned by the City outside the limits of the City, it is unlawful for any person, firm or corporation to do any of the acts hereinafter specified, and the Police Officers ~~Community Service Officers and police trainees~~ are hereby empowered to

arrest a person whenever the ~~Community Service Police~~ Officers ~~and police trainees~~ have reasonable cause to believe the person to be arrested has committed in his or her presence the acts hereinafter specified:

A. To cut, break, injure, deface, or disturb any plant, rock, building, cage, pen, monument, fence, bench, or other structure, apparatus, or property; or to pluck, pull up, cut, take or remove any shrub, bush, plant or flower; or to mark or write upon any building, monument, fence, bench, or other structure; or to carry any flowers, shrubs, or branches into or through the park.

B. To cut or remove any wood, turf, grass, soil, rock, sand or gravel.

C. To post, place or erect any bill, notice, paper, or advertising device or matter of any kind.

D. To ~~sell or offer for sale any merchandise, article or thing whatsoever, or to~~ conduct any ~~class~~, special event, or tournament, whether or not for profit, without a special event permit. Such permit shall be carried by the vendor, or the party conducting such class, event or tournament at all times that such party is within a City park for the purpose of such sale or activity.

E. To willfully tamper with, or damage any water or gas pipe, hydrant, stopcock, sewer, basin, or other construction in any park.

F. To carry or discharge any firearm, air gun or slingshot.

G. To make or kindle a fire except in picnic stoves provided for that purpose or pursuant to Chapter 12.70 of this Code, or to camp, except in places designated as such by the City Manager.

H. To ride or drive any horse or other animal or any motorized vehicle, cycle, or scooter elsewhere than on the roads or drives provided for such purpose, or to drive a motor vehicle in an erratic or hazardous manner on any park roads, paths or parking areas.

I. To indulge in riotous, threatening, or indecent conduct, or abusive, threatening, profane, or indecent language.

J. To enter, remain, stay or loiter in the swimming pools in the public parks or the enclosures surrounding said pools at any time when said pools are not open to the public, with a lifeguard on duty.

K. To retrieve and abscond with balls hit, thrown or rolled over, under or through the fences or stands enclosing an athletic area.

L. To play or engage in model airplane flying, radio controlled or non-radio controlled model powerboat operation or the use of any other power driven or noise producing hobby or recreational device, driving of golf balls, archery, hardball or any similar games of a hazardous nature, except at such places and times as shall be specifically established by the Director of Parks and Recreation.

M. To throw or place on or in any park any paper, rubbish, garbage, or refuse matter of any kind.

N. To enter, remain, stay or loiter on the playing area, roughs and lagoons of any golf course or golf driving range without first having purchased a valid admission ticket to such course or range having been authorized by the person in charge to enter such course or range.

O. To enter, remain, stay or loiter on any portion of any golf driving range other than a designated tee area.

P. To possess any beverage container made of glass in any City park or playground or to bring, carry, or transport any beverage container made of glass into any City park or playground.

(Prior code 5-022; Ord. 007-07 C.S. § 3)

SECTION VII. AMENDMENT OF CODE.

Title 12, Chapter 12.76 of the Stockton Municipal Code, titled "SOLICITING ON PUBLIC STREETS – PROHIBITED" is hereby repealed in its entirety:

~~It is unlawful for any person to solicit on any public street or sidewalk, park or other public place, or in any doorway or entranceway immediately abutting thereon, within the City of Stockton, State of California, the sale of any subscription to any magazine, periodical or other publication for delivery at a subsequent time.~~

~~(Prior code § 5-114)~~

SECTION IX. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this article or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this article or any part thereof.

The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION X. EFFECTIVE DATE.

This ordinance shall take full force and effect 30 days after its passage.

ADOPTED: _____

EFFECTIVE: _____

CHRISTINA FUGAZI
Mayor of the City of Stockton

ATTEST:

KATHERINE ROLAND, CMC, CPMC
City Clerk of the City of Stockton