

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Informational Report on New
Mobile Food Vending Regulations

DATE: November 7, 2013

City Administrator

Date

Approval



11/17/13

COUNCIL DISTRICT: All

RECOMMENDATION

Staff recommends that the City Council accept:

An Informational Report On The Status Of The Mobile Food Vending Ordinance

EXECUTIVE SUMMARY

There is strong interest on the part of mobile food vendors, mobile food event organizers, and members of the general public and various advocacy groups, to increase opportunities for mobile food vendors to vend legally in Oakland. When located appropriately, mobile food vending can add vitality to the street, contribute to the richness of Oakland's culinary and cultural offerings, and provide economic opportunities for small business owners. The feedback from mobile food vendors, in particular, has been that the City should establish a permanent citywide program that will allow for vendors to vend in more areas of the city, including in the public right-of-way. However, any program to increase mobile food vending must be balanced with ensuring public health and safety, equitable and appropriate use of the public right-of-way, and strike a balance with the interests of the City's "brick and mortar" restaurants.

BACKGROUND

In 2001, the Council adopted regulations to establish a pilot program for both pushcart and vehicular food vending.¹ The City's pilot program regulations were then revised and made permanent in 2004, when the Council decided to establish an ongoing pushcart program (on

¹ Ordinances Nos. 12310 and 12311 C.M.S. established eighteen-month pilot pushcart and vehicular vending programs, respectively.

sidewalks) and a vehicular food vending program (on private property only) in limited areas along certain major corridors east of Lake Merritt.² These areas and regulations are specified in Oakland Municipal Code (OMC) Chapter 5.49 - Pushcart Food Vending Pilot Program; and OMC Chapter 8.09 - Vehicular Food Vending.

In December 2011, Planning staff presented a proposal to the CED Committee of the City Council for an interim program that would allow for groups of mobile food vendors to cluster together in one location (a vending format commonly referred to as “food pods”). Vending in groups, as opposed to individually, was the focus of the first phase of work to comprehensively update the City’s mobile food regulations, because vending in visually identifiable groups at known locations would:

- Increase the likelihood of the vending operations being perceived as “an event” by potential patrons; and
- Facilitate identification and monitoring by City staff.

In January 20, 2012, the Council-adopted Interim Regulations for Mobile Food Vending Group Sites (“MFV Group Sites”) went into effect. “MFV Group Sites” are defined as “the stationary operation of three (3) or more mobile food vendors clustered together on a single site.”³ The Mobile Food Vending Group Site pilot program area is defined, in part, by Council Districts 1, 2, 3 and 4.

However, outside of the Interim Mobile Food Vending Group Site program that applies in Council Districts 1, 2, 3 and 4, and the original Pushcart and Vehicular Food Vending programs that apply in limited areas of central and east Oakland, *Mobile Food Vending is not currently allowed in the city except in the following limited circumstances:*

- Upon review and approval of a Major Conditional Use Permit (CUP) by the Planning Commission;
- In instances where a Special Event Permit has been issued by the Oakland Police Department for a limited duration event (such as First Friday); or
- By a Council action establishing and regulating a street market in the city.

² Ordinances Nos. 12582 and 12583 C.M.S. established a permanent Pushcart Vending Program and amended the Master Fee Schedule, respectively; Ordinances Nos. 12580 and 12581 C.M.S. amended the Master Fee Schedule and established a permanent Vehicular Vending program, respectively.

³ OMC Section 5.51.040.

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ANALYSIS

Staff's original intent was to have a proposal for new citywide Mobile Food Vending regulations ready for Planning Commission and City Council consideration by early 2013. However, due to the complex nature of regulating mobile food vending (involving multiple City and County departments), and the current heavy workload in the Strategic Planning Division (including the preparation of five Specific and Area Plans), staff was not able to complete work on a new citywide Mobile Food Vending program this year as was originally intended. Staff now anticipates bringing new citywide Mobile Food Vending regulations to the Planning Commission and City Council in spring 2014.

Issues relating to enforcement and parking must be addressed in any proposal for a comprehensive, citywide mobile food vending program. Staff intends to bring a proposal to replace the City's various existing mobile food vending regulations with a new citywide mobile food vending program to the CED Committee of the City Council in spring 2014 - with the goal that a new set of citywide Mobile Food Vending regulations may be adopted and implemented in time for their use during the 2014 vending season.

COORDINATION

This report has been reviewed by the Budget Office, and by the Office of the City Attorney.

COST SUMMARY/IMPLICATIONS

There are no fiscal impacts from this Informational Report. Permit fees for mobile food vending will be reassessed as part of the development of a new citywide mobile food vending program. Any fees collected by the City of Oakland's Community Economic Development Agency (CEDA) will be deposited into the "Development Services Fund" (2415).

SUSTAINABLE OPPORTUNITIES

Economic:

- Meet the clear demand for additional mobile food vending opportunities in Oakland;
- Promote community economic development by fostering the creation of new living-wage jobs and local ownership opportunities;
- Attract additional foot traffic to commercial districts - which means increased sales and more vibrant retail business overall;

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- Support an effective entry point to owning one's own business. For a modest investment, an entrepreneur can develop a track record in retail sales and develop a loyal clientele.

Environmental:

- Encourage the provision of low-cost, culturally-diverse food for Oakland residents, employees, and visitors.

Social Equity:

- Encourage greater access to healthy, affordable food in underserved Oakland neighborhoods, while encouraging self-employment opportunities.

CEQA

The proposal is exempt from the California Environmental Quality Act (CEQA) under several CEQA Guidelines, including without limitation Section 15061(b)(3) (known as the "General Rule," that states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment) and Section 15183 (projects consistent with a Community Plan, General Plan and/or Zoning).

For questions regarding this report, please contact Ed Manasse, Strategic Planning Manager, at (510) 238-7733.

Respectfully submitted,



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