



CITY COUNCIL STAFF REPORT

DATE: JULY 16, 2014 CONSENT CALENDAR
SUBJECT: PROPOSED MOBILE FOOD VENDOR ORDINANCE
FROM: David H. Ready, City Manager
BY: Community & Economic Development Department

SUMMARY

In April, 2014, the County of Riverside amended its Health Department rules to allow Mobile Food Vendors (food trucks) to operate in the county outside the very narrow limitations that had previously been in place, such as only being able to operate at special events, etc. The County's rule change only applied to the Health Department aspects of the operation, and they left it up to cities in Riverside County to develop their own rules with regards to land use and operation.

Given the City's exciting pedestrian environment, there is no doubt that Palm Springs is likely to be one of the top destinations for food trucks wanting to operate in Riverside County. Understanding that, on March 18, 2014 the City Council adopted a moratorium for a six month period to allow the development of an ordinance that would address a number of the issues regarding food trucks.

Over the past couple of months, Staff has been working with a stakeholder group to help develop the City's food truck ordinance. In addition, Staff has reviewed over a dozen food truck ordinances from other cities in California, and studied the food truck issue as it is being handled in large and small cities across the country. Staff has also begun drafting an ordinance based on a number of provisions adopted by other cities.

This report is intended to update Council on the direction Staff is taking on a number of issues that are raised in other ordinances or by members of the stakeholder group. These issues include licensing, as well as potential limitations on locations and hours of operation, seating, trash receptacles, and other items.

ITEM NO. 2.P.

RECOMMENDATION:

1. Receive and File the Staff Report and direct Staff to bring a proposed Mobile Food Vendor ordinance to City Council in September, 2014.

Background

In April, 2014, Riverside County amended its Health Department rules to allow Mobile Food Vendors (food trucks) to operate in the county outside the very narrow limitations that had previously been in place. On March 18, 2014 the City Council adopted a moratorium for a six month period to allow the development of an ordinance that would address a number of the issues regarding food trucks

Over the past couple of months, Staff has been working with a stakeholder group to help develop the City's food truck ordinance. The stakeholder group is comprised of restaurant owners and other downtown representatives. Staff tried to ensure a good geographic representation of stakeholders, as well as a mix of restaurant types, including restaurants from Uptown, each of the blocks in Downtown, as well as the areas east of Indian Canyon Drive. Both large and small restaurants are represented, as are those who operate restaurants outside Downtown.

Since Riverside County is relatively new to allowing food trucks, there are only a few local ordinances. Most ordinances come from other parts of California. The City Clerk's office received ordinances from Apple Valley, Arroyo Grande, Cathedral City, Delano, Torrance, Lawndale, Auburn, La Habra, Novato, and South Lake Tahoe. Staff also considered Palm Desert's ordinance, which was adopted earlier in 2014, and which featured a 750 radius around existing brick and mortar restaurants. San Francisco also has very detailed regulations related to mobile food operations.

With proper regulation, Mobile Food Vendors can provide additional food choices for Palm Springs residents and visitors. However, narrow streets, limited off street parking and crowded sidewalks, and other related safety hazards are all especially severe in the Central Business District and create obstacles to the safe operation of such businesses. Allowing mobile food vendors in that area of the City may pose an unacceptable threat to public health and safety, and could be detrimental to the aesthetic and cultural concerns of the City.

Vehicles in which hot and/or cold food are carried for the purpose of retail sale on the public and private streets pose traffic hazards and special dangers to the public health, safety and welfare and residents in the City. It is the purpose and intent of the City, in enacting an ordinance, to provide responsible companies and persons who engage in food vending from vehicles with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

The draft ordinance would address Mobile Food Vendors operating on public or private property, including those who would be required to obtain a Temporary Parking Lot Event Permit, as well as be required to comply with the General Mobile Food Vending requirements found in the ordinance. In addition, it would address Mobile Food Vendors that desire to operate on streets or in the public right of way. Most cities seem to regulate one or the other – either special events and private property, or on-street vending. Palm Springs should consider the regulation of both.

On-Street Vending in the Right of Way, or on Public Property

In drafting the ordinance, there are a number of General Mobile Food Vending Requirements that can vary and do vary from city to city. This section describes possible regulations of Mobile Food Vendors operating in the public street.

1. A Mobile Food Vendor business will be conducted not earlier than 9:00 a.m. and not later than 5:00 p.m.
2. On-street Mobile Food Vendor activity may occur in any zoning district within the City, where not otherwise restricted. The Mobile Food Vendor vehicle must be at a complete stop and parked consistent with the requirements of the California Vehicle Code and the Municipal Code.
3. The availability of legal and permissible locations to operate on the street for any particular vendor may fluctuate based on the number of Mobile Food Vendors choosing to operate in the City at any given time. However, the permit application should ask the applicant his/her intended areas of operation (perhaps the top three).
4. No individual shall park to conduct Mobile Food Vendor business for more than two hours at any one location, with the sole exception of vending pursuant to a valid Temporary Parking Lot Event permit (on private property, described above).
5. No person shall vend from a mobile food vending vehicle which is stopped, parked or standing on any public street, alley or highway:
 - a. When the posted speed limit on a public street, alley or highway is greater than thirty five (35) miles per hour. The stakeholder committee asked for discretion to lower the limitation to thirty (30) miles per hour, as there are a number of stretches of road (Indian Canyon Drive, north of Amado, for example) which are posted at 30 mph but experience much faster traffic.
 - b. No person shall vend to any person standing on the left side of the mobile food vending vehicle while it is stopped in the roadway, when the prospective customer is located in that portion of the street, alley or

highway which is open to vehicular traffic. On one-way streets, that means Mobile Food Vendor Vehicles could only be located on the right hand side. Mobile Food Vendors may not face the wrong way on a public street to reverse the orientation of the serving window.

- c. No Mobile Food Vending vehicle shall be parked within seventy-five (75) feet of the nearest point of an intersection.
 - d. No Mobile Food Vending vehicle shall operate within two hundred feet of another mobile food vending vehicle which has already stopped to vend. This provision is to limit the back-to-back congestion on the public street that is often seen where food trucks congregate in one section of a street.
6. In addition to the intersection restriction of 75', Mobile Food Vendor vehicles must be no less than twenty feet (20') of a fire hydrant, pedestrian "pop-out," fire escape, bus or trolley stop, valet or taxi loading zone, bike corral, alley, mid-block crosswalk, loading zone, handicapped parking space or access ramp, fire station driveway or police station driveway, and any street corner curb radius. A greater distance or separation from other uses may be required, under the permit, in order to preserve line-of-sight, or for other safety reasons.
 7. No Mobile Food Vendor vehicles shall operate or vend on any state highway.
 8. No Mobile Food Vendor vehicles shall operate or vend in any designated bike lane.
 9. No person shall back up a Mobile Food Vending vehicle to make or attempt to make a sale.
 10. No Mobile Food Vendor vehicles shall stand, stop or park within five hundred (500) feet of the property line of any public or private school intended to educate individuals eighteen years of age or younger between the hours of 7:00 a.m. and 7:00 p.m. on days when school is in session. If vending is pursuant to a valid Temporary Parking Lot Event permit for activities on school grounds, this provision shall not apply. This was a very common provision in most ordinances.
 11. Some cities, such as Cathedral City, expressed concern about food trucks operating in public parks, especially in sports or recreational facilities. Often the snack bar at these facilities, operated by the sponsoring organizations and staffed by volunteers, serves as the primary fundraising opportunity for youth sports organizations. The stakeholder committee held the same concern and recommend that the City not allow the operation of Mobile Food Vehicles in Public Parks (though there would probably opportunity to operate near parks, in the right of way). Such operation could be subject to the same restrictions as in item No. 10 above, for the same traffic safety reasons.

12. If the City did decide to allow Mobile Food Vendors to operate in public parks, several cities have added an additional layer of regulation and public protection – LiveScan of applicants and employees for background checks, as well as additional insurance naming the City as additional insured. The City already requires background checks for recreation employees that work with children, and for outside operators in its park and recreation facilities.
13. Mobile Food Vendor vehicles must have current and valid registration clearly marked on their plates while vending on the public street
14. Mobile Food Vendor vehicles shall comply with all local and State regulations regarding noise levels, including the Noise Ordinance of the City of Palm Springs. In addition, no vendor shall use sound or music amplification or be so loud as to be heard inside the premises of an adjacent building or structure while the entrance door to the premises is closed.
15. No individual shall vend if the conduct of the vending business creates a potential safety issue or obstruction to the normal flow of traffic on the public street or alley. No Mobile Food Vendor vehicles shall block or obstruct the free movement of pedestrians or vehicles on any sidewalk, walkway, street, alley or other public right of way.
16. No temporary tables or seating for patrons may be permitted by the Mobile Food Vendor operating in the public right of way.
17. Each operator must have the ability of employees of the food truck to use a readily available toilet and hand washing facility as required by State law and shall otherwise comply with the California Health and Safety Code standards.
18. Many cities require that each Mobile Food Vendor vehicle shall be inspected annually by the police department and shall have:
 - a. Verification of a mechanical safety inspection of the vehicle performed by a certified mechanic.
 - b. Verification of a health and safety inspection by the County Department of Health.
 - c. Upon successful completion of inspection by the police department a certificate will be issued and maintained in the vehicle at all times.
19. All inspection certificates as well as the permit or license issued by the County Department of Health and the City must be visibly on display and available for viewing by any member of the public.

Off Street Vending on Private Property/Mobile Food Vendor Events

For those operating on private property, authorization from the property owner (or authorized agent) of the site/location on which the operation of Mobile Food Vehicles or Temporary Event is taking place on shall always be required.

Most cities exempt School District Property from the regulations, for jurisdictional reasons, though they do create limitations around schools for safety reasons. Those limitations are described below in the "On-Street" section.

Other limitations of Mobile Food Vendors operating on private property are as follows:

1. A "Food Caterer" could be a food truck or a conventional caterer delivering or serving food to private events would be exempt from this provision. A Food Caterer means a person or entity that prepares food at a kitchen facility approved by the County of Riverside Department of Health that is pre-ordered and served at a private event which is not open to the general public.
2. Most cities do not allow Mobile Food Vendors and Mobile Food Vendor Events to be permitted on properties used or zoned for residential purposes. Furthermore, Mobile Food Vendor Events, as described below, shall be located a minimum of 100 feet from property zoned or used for residential purposes as measured from the event perimeter to residential property line.
3. Many cities require that Mobile Food Vendors be subject to a form of Temporary Event Permit if the Mobile Food Vendor or Vendors will be operating on site (private property) for a period as short as 20 minutes. Other cities are silent on time limits, or allow Mobile Food Vendors to operate on private property for longer periods. The most common time limitation is two hours without a special Temporary Event Permit.
4. Many cities that allow Mobile Food Vendor Events also have limitations on the number of such events per year per site or location. The stakeholder committee recommended that the number of Mobile Food Vendor Events in Palm Springs be limited to no more than 2 days per calendar year.
5. One question arose from reviewing all of the other cities' ordinances, since few of the cities that provided ordinances has the scale and breadth of special events that Palm Springs has: when does an event that is not a "Food Truck" event become a food truck event? As the City looks to develop an event center on its own land in the downtown, for example, could a promoter have the right to stage, say, music and art festival there with food trucks? Would there be a maximum number of trucks? Are having food trucks serve the festival qualitatively different than having the same number of (outside) food vendors?
6. In such Food Truck events, the displacement of parking by the event itself can be an issue. In Mobile Food Vendor Events, many cities require that no more than 10% of the total number of parking spaces provided on the site/location be displaced by the Mobile Food Vendor Event. A Mobile Food Vendor Event that displaces more than 10% of the total parking may be approved on a case by


case basis with Fire Department and Police Department concurrence based upon circulation, health, safety and welfare.

7. In addition, a detailed and dimensioned site plan of the Mobile Food Vendor Event layout shall be provided with the Temporary Parking Lot Event Permit application. The plan of the Mobile Food Vendor Event layout shall include the location of each Mobile Food Vendor, adequate space for customer queues and safe pedestrian movement without interfering with circulation outside the designated Mobile Food Vendor Event area, and location of all other activities or temporary structures associated with the Mobile Food Vendor Event. Handicap parking spaces and accessibility shall be maintained at all times during the Mobile Food Vendor Event.
8. All Mobile Food Vendor vehicles shall remain parked and stationary during the Mobile Food Vendor Event. There shall be no Mobile Food Vendor vehicle movement during the Mobile Food Vendor Event.
9. Mobile Food Vendor Event hours of operation shall be between 9:00 a.m. to 5:00 p.m. This is the recommendation of the stakeholder committee.
10. The applicant shall demonstrate that there will be sufficient access to on-site restroom facilities provided for customers of the Mobile Food Vendor Event. There is some question as to what the County Health Department requires in terms of restrooms. Clearly, restrooms would be required within 200' of a Mobile Food Vendor operation or Temporary Event; however, there is some inconsistency between different cities' ordinances about whether portable restroom and hand washing facilities – which are allowed or required for all other types of special events – would be permitted for Food Truck Events.
11. Temporary tables and seating for patrons may be permitted within the Mobile Food Vendor Event area as part of the approved Temporary Parking Lot Event Permit application and plan. Temporary tables and seating for patrons would not be permitted within the Mobile Food Vendor area operating under a time limit and without a Temporary Event permit.


(Caveat: Ordinance provisions would be applicable to owners and operators of Mobile Food Vendor vehicles. In some cases, Mobile Food Vendors do not own their vehicle, so there is often the “operator” and the “owner” of the vehicle. Each is obligated to comply with the provisions of the ordinance. Violations of the ordinance by an operator or permit holder, or owner, could be grounds for suspension or revocation of the permit.)

Conclusion

The March 18, 2014, City Council moratorium on food trucks was for a six month period, and will expire on September 18, 2014. Based on the language outlined in this report and any additional City Council direction, Staff will finalize drafting a Mobile Food Vendor Ordinance for the September 3rd agenda.



John S. Raymond, Director of
Community & Economic Development



David H. Ready, City Manager

2.P. DEVELOPMENT OF A COMPREHENSIVE MOBILE FOOD VENDOR ORDINANCE:

RECOMMENDATION: 1) Receive and file report; and 2) Direct Staff to draft a proposed Mobile Food Vendor Ordinance for City Council consideration in September, 2014.

MATERIALS TO FOLLOW

ITEM NO. 2.P.