REPORT TO MAYOR AND COUNCIL

NO: 12-304

Council Date: December 18, 2012

SUBJECT: 2012-7113 Discussion and Possible Action to Introduce an Ordinance to Amend Title 5 (Business Licenses and Regulations) and Title 19 (Zoning) Regarding Food Truck Location and Operation Requirements (Study Issue)

REPORT IN BRIEF

Council directed staff to study food truck operations and develop appropriate regulations that address their daily operations on private property and the public street (Attachment A, Study Issue Paper). Existing City regulations were not developed to adequately address the recent evolution of the food truck industry. This study addresses regularly occurring food truck operations and does not include changes to the City's Special Event Permit process or substantive changes to the current requirements which regulate pushcart vendors. When reviewing this report, the potential impacts of this one type of mobile vending must be considered in light of the many other mobile vending uses which appear from time to time. Council should be mindful of the fact that mobile vending uses can appear in many different forms: mobile pet clinics, mobile retail sales, mobile medical and dental uses, etc.

Food trucks are required to comply with applicable city, state and federal regulations, and must obtain any necessary permits, including a business license (if required by a city or county), environmental health permits from every county they operate in to ensure food safety and handling and a Seller's Permit from the California Board of Equalization.

The Planning Commission considered this item at a public hearing on November 26, 2012 (Attachment K, Planning Commission Public Hearing Minutes of November 26, 2012). Staff has incorporated the Planning Commission recommendations into the proposed ordinance.

Staff recommends introduction of a proposed ordinance (Attachment B, Draft Proposed Ordinance) which:

- Establishes mobile vending operational standards for public streets and private property relating to public safety. These standards include: required distances from hydrants and driveways, fire lanes, crosswalks, etc.; hours of operation; maintenance of trash receptacles and cleanliness of surrounding area; and, prohibition of amplified speech or music;

- Requires display of a Sunnyvale business license, and display or provision of proof, upon request, of licenses and permits from other agencies such as Santa Clara County Department of Environmental Health, which ensures food safety and sanitation.
- Allows food trucks to operate on the public street and private property under specified conditions (hours of operation, duration, number of trucks per location, etc.);
- Establishes a permitting process for requests to operate on private property that exceed specified conditions;
- Establishes provisions that allow the City to take action if mobile vendor sales: create a public nuisance; are located, operated or maintained in a manner that impedes vehicular and pedestrian circulation; or creates a hazard to life or property; and
- Consolidates the City's regulations on all types of vending.

Staff would monitor the effectiveness of the adopted regulations and propose any future amendments, if necessary.

BACKGROUND

Food trucks are increasing in popularity and continuing to evolve from their traditional examples: the ice cream truck and lunch/catering truck that sell prepackaged food. The old food truck business model would drive a designated route and stop only for a short time at the request of a customer. Technology and the recent economic recession have given rise to a new generation of entrepreneurs. Today's food truck business model offers unique, higher-end gourmet dishes that involve some on-site food preparation. Food trucks are also able to advertise their location in real time through social media. In contrast to the old business model, today's food trucks tend to park and sell from one location for hours at a time. Recurring street food market events where communities can sample several food trucks at one location are now also held throughout the Bay Area, which has contributed to their popularity.

Staff has received many inquiries from the public about whether food trucks are regulated by the City. A list of existing City regulations relating to food trucks is located in Attachment C. In general, the existing regulations address only the old business model on the public street, and are complicated and inadequate for most newer operations including those who locate on private property.

EXISTING POLICY

LAND USE AND TRANSPORTATION ELEMENT:

LT-2.1: Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.

LT-2.1d: Require that commercial activities be conducted primarily within a building.

LT-4.1: Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

LT-4.1a: Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

LT-4.1d: Anticipate and avoid whenever practical the incompatibility that can arise between dissimilar uses.

LT-4.3: Support a full spectrum of conveniently located commercial, public, and quasi-public uses that add to the positive image of the City.

LT-4.7: Support the location of convenient retail and commercial services (e.g., restaurants and hotels) in industrial areas to support businesses, their customers and their employees.

Goal LT-6: Supportive Economic Development Environment – An economic development environment that is supportive of a wide variety of businesses and promotes a strong economy within existing environmental, social, fiscal and land use constraints.

LT-7.3: Promote commercial uses that respond to the current and future retail service needs of the community.

Goal CC-2: Attractive Street Environment – Create an attractive street environment which will complement private and public properties and be comfortable for residents and visitors.

DISCUSSION

The popularity of food trucks, and street food in general, has caused many cities to reconsider their regulations. Street vendors attract people and attention, and crowds have the potential to create vehicular and pedestrian traffic hazards. Some believe that street vendors are unsightly and that they threaten the viability of off-street establishments. Others believe that food vendors can perform a social function by activating underutilized public spaces, providing a desired service, promoting socialization and creating a sense of community. While some cities like Portland, Oregon and Austin, Texas have integrated food trucks and other street vendors into their communities, others have struggled with the challenges their presence brings.

Staff used the following methods to better understand options in creating appropriate regulations:

- Understand state law and city authority to regulate vehicular vending;
- Observe current food truck operations in Sunnyvale;

- Recognize community concerns; and
- Examine which options are appropriate, considering existing and potential issues that are specific to the City.

REGULATORY FRAMEWORK

Public Streets – The City's ability to regulate vehicular vending on public streets is limited by state law. The California Vehicle Code (CVC) preempts local parking regulations except as expressly authorized by state law. CVC Section 22455 provides that vendors must bring their vehicle to a complete stop and be legally parked before vending, and further gives cities the ability to regulate "the type of vending and the time, place, and manner of vending" for reasons of public safety.

The definition of a reasonable "time, place, and manner of vending" on public streets is determined on a case by case basis. One case found that a complete ban on vehicular vending on public residential streets is not a reasonable time, place and manner restriction, and is therefore outside the scope of a city's authority granted by CVC 22455. Several cities have been challenged when regulations were aimed at protecting "brick and mortar" business establishments from competition. Parking time limitations for food trucks, usually for brief periods of time (the "ice cream truck exemption"), have also been challenged where the ordinance had no clear public safety justifications. Items that are directly associated with public health and safety include provisions that prevent vehicle and pedestrian obstructions, mitigate noise, prevent overconcentration of vendors which tend to attract larger crowds, ensure adequate trash facilities and provide employee access to restrooms/handwashing facilities.

Private Property/Public Sidewalk – Although the CVC preempts regulation of public streets, cities retain local authority to regulate public sidewalks. Cities may also regulate private property in the interest of protecting public health, safety and welfare.

CURRENT OPERATIONS IN SUNNYVALE

Staff observed various food truck sites within the City (Attachment E, Current Food Truck Locations). Attachment E indicates some of the current location of food trucks and site conditions. The map in Attachment E shows that many of these sites are in industrial areas. Food truck vendors have expressed a preference to locate in industrial areas where there is a need for food service for employees, and where there is typically an abundance of parking.

Office and Industrial Areas

In general, food trucks tend to stay in one place during lunch and dinner service hours for about two hours per service. There are, however, trucks (old business model) that drive a chosen route and stop at locations only for a short

amount of time. Many of the trucks that are on private industrial property have an agreement with the property owner/manager to stay for extended periods of time to cater to onsite employees. This type of arrangement is needed because state law requires food truck vendors to have permission to use a restroom within 200 feet travel distance of their location if stopped and operating for more than one hour.

If the arrangement described above takes up required parking or drive aisles, the activity may require a land use permit under existing regulations. Under existing regulations, a conditional use permit (with public hearing) is required to sell to the general public on private property. There is a concern that attracting offsite customers could create parking and traffic issues. Staff, however, observed that this activity did not create such issues currently. Many customers were onsite employees and employees who walk from surrounding properties. There is typically ample parking available for offsite customers either on the property or on the street. Customers also tend to leave the site immediately after receiving their order. Staff also observed that two to three trucks operating at the same time, at some of the larger industrial properties with excess parking spaces, did not create public safety concerns. However, public safety hazards and incompatibilities could arise if food trucks negatively affect parking or circulation, or essentially become an accessory use on the property.

To avoid problems from developing in the future, the City could adopt regulations for a property owner or authorized agent to allow a certain number of food trucks on their property under specified conditions. Conditions could include the length of time food trucks could be on the property, the number of food trucks that could be present at any given time, and requirements for food trucks to occupy only parking spaces in excess of what is required for the primary use on the property.

El Camino Real

There are at least two food trucks that operate daily on or near El Camino Real (Attachment E). Other food trucks operate during dinner hours at least once a week. While their presence has attracted attention from nearby business owners, the Department of Public Safety (DPS) has received few complaints related to pedestrian and vehicular safety. There have been instances where part of a food truck has obstructed the public sidewalk or where food trucks have occupied required parking on private property and sell to the general public without a Use Permit. Neighborhood Preservation staff have been able to work with the food truck vendors to correct these violations by enforcing applicable sections of the CVC and SMC. If any vending activity constituted a public nuisance, DPS could also take appropriate actions using existing nuisance provisions in the SMC.

California Streets and Highways Code Section 731 prohibits the sale of any items from vehicles while parked on state highways. Local law enforcement has discretion to enforce these provisions. Staff is not aware of any neighboring cities that have used this code to ban food trucks on El Camino Real (which is a state highway).

Food trucks are required to comply with all stopping and parking restrictions, just like any vehicle. Existing on-street parking on El Camino Real and adjacent side streets is limited by no parking zones, bus stops, and loading zones. The City has a long-term plan to add bike lanes along the entire length of El Camino Real (*Bicycle Opportunities Study*, 1998) in coordination with Caltrans. All on-street parking along the entire corridor will eventually be removed with the future striping of bike lanes, and food trucks would not be able to park on El Camino Real.

COMMUNITY CONCERNS

Public Complaints

In the last five years, DPS has received approximately 10 complaints regarding food truck activities. The complaints have primarily been from brick and mortar restaurant owners regarding the perceived economic advantage that food trucks have over restaurants. Because of their mobility, food trucks are not subject to property taxes or space rent, land use or building permits, utility bills, and other traditional restaurant overhead expenses. Using zoning to regulate business competition is problematic if not based on a public safety objective.

DPS has also received complaints from residents about late night noise and other safety concerns involving food trucks operating on commercially zoned property. Most of the City's commercially zoned properties are adjacent to residential neighborhoods. The complaints were mainly associated with noise from nightclubs and the late night crowds; there were complaints that the food truck service was perpetuating loitering and noise.

The City could adopt operational standards on private property such as limited hours of operation, and a permit process for operations beyond standard hours so staff can evaluate the proposed location and its compatibility with other uses on the site and surrounding properties. The City could also adopt food truck hours of operation for the public street to address any potential spillover food truck activity as a result of such regulations.

Health and Sanitation

Questions have been raised about health and sanitation issues. Food truck vendors and employees are subject to the California Retail Food Code requirements, which provide a system of prevention and safeguards designed to address public health and sanitation concerns. Any operation where food is provided for human consumption at retail (whether restaurants or food trucks

or pushcarts) is subject to the California Retail Food Code, which is enforced by county health departments.

Food trucks are required to obtain permits and approvals from the environmental health departments of each county within which they operate. The Santa Clara County Department of Environmental Health (County Health) is responsible for ensuring that food vendors operating in Sunnyvale and throughout the County are complying with the California Retail Food Code. It was stated in a recent interview with County Health (Attachment F, Almanac Article) that 387 food trucks are permitted in Santa Clara County.

County Health inspectors conduct the initial inspection of the food trucks, trailers or pushcarts when a permit is originally applied for. In addition, the County performs annual renewal inspections. The number of inspections required per year is based on risk level, the same as any business selling food. If a food truck or brick and mortar restaurant only sells prepackaged foods, they are inspected at least once during the year. Operations that include limited preparation (heating and assembling) are inspected at least twice a year. If the operation includes advanced preparation with constant heating and cooling or actual cooking, which is how restaurants typically operate, they are inspected at least three times a year. There have been no reports of food-borne illnesses related to food trucks within the County.

Other notable California Retail Food Code requirements for food trucks include:

- Any vendor stopped and operating for more than an hour must obtain permission to use an "approved" restroom facility within 200 feet travel distance. "Approved" is defined as acceptable to the enforcement agency (county health departments) based on a determination of compliance with applicable laws, or current public health principles and standards that protect public health; and
- Food trucks and pushcarts are required to operate out of a commissary, where food preparation and storage, truck/pushcart maintenance and storage and disposal of waste occur. A commissary can be a commercial or catering kitchen or even a restaurant if the restaurant has a food truck extension of its business. Storage of food trucks or pushcarts on residential property is prohibited per the California Retail Food Code.

The City could adopt a provision that would require any vendor to display or provide proof upon request of other agency licenses and approvals, including their County Health permit. The public can also easily spot whether a food truck has current County Health approval by looking for a current County Health sticker on the truck's exterior. County Health can also take complaints from the public regarding unsafe food safety and handling.

Use Compatibility

Food trucks in commercial or industrial areas are generally compatible with surrounding uses. Food trucks locating in residential areas, however, raise concerns about compatibility. Existing zoning restrictions already address this concern if the activity is on private property. Restaurant or retail uses (not part of mixed use developments) are prohibited on residentially-zoned properties. Food trucks operating on public school property are exempt from any zoning requirements if operating for school purposes.

It is more challenging to address food trucks on public streets in residential neighborhoods. Public safety on public streets could be addressed by developing operational standards such as: hours of operation, limits on amplified speech and music, and distance requirements from driveways, fire lanes, intersections, etc.

In Sunnyvale, food trucks tend to locate away from residential neighborhoods. The exceptions are ice cream trucks, which residents are accustomed to. The City could choose to adopt time restrictions for operating in residential areas, but the restroom access required by state law effectively limits food truck operations to one hour per location, which is most likely why only ice cream trucks are primarily seen in these areas.

Retail Sales Taxes

Food truck vendors and other vendors are required to collect and report sales tax from their transactions, like any other business. Food truck vendors are required to obtain a Seller's Permit from the California State Board of Equalization (BOE). BOE is responsible for collecting the sales tax and distributing the portion cities are entitled to. The City does not have the authority to collect sales tax or enforce sales tax regulations. The City could require proof of the Seller's Permit upon request, but it is the California Board of Equalization's responsibility to enforce the requirement to report sales taxes. The public can report claims of business tax evasion directly to BOE.

PROPOSED ORDINANCE

Staff has surveyed other cities throughout the Bay Area (Attachment G, Other Cities' Vending Regulations), and other California cities that have recently updated their regulations. While there are similarities between the regulations, ordinances differ considerably in response to the perceived concerns and unique characteristics of each city.

One of the challenges in developing appropriate regulations is to consider the indirect consequences of regulations that pertain to public streets and those that pertain to private property. If a permit is required for a food truck on private property but not on the street, vendors may be more inclined to locate on public streets, which may be the less desired location for them and for the community.

If sufficient operational standards and requirements are in place to safeguard against public safety hazards, a permit may be unnecessary. The SMC currently contains operational standards and other requirements for uses for which no permit is required. For example, a home occupation is a permitted use in a residence but subject to operational standards. The home business would be required to cease operations if found to be in violation of the operational standards. Staff recommends regulating food truck vendors in a similar manner, and only requiring a permit for specific situations as described in the next section. A cluster (or overconcentration) of food trucks on the public street can be dealt with through nuisance provisions if it creates a public safety issue.

Operational Requirements

The proposed draft ordinance (Attachment B) contains the following provisions.

General Requirements for Vendors on Public Street and Private Property

Regardless of location, all vendors must comply with the following:

- Display a Sunnyvale business license, and display or provide proof (upon request) other applicable permits and licenses from other agencies (such as Santa Clara County Department of Environmental Health);
- Locate on a paved area and be 15 feet from hydrants and driveways, 25 feet from fire lanes, 50 feet from crosswalks and intersections, and 100 feet from bus stops (from existing vending regulations);
- No amplified speech or amplified or live music;
- Maintain clearly designated trash receptacles and surrounding area clean at all times;
- Keep customers from blocking the public sidewalk;
- All signage must be painted on the vehicle (no portable A-frame signs, same as any other business); and
- Hours of operation are between 8:00 a.m. – 9:00 p.m. on public streets and 7:00 a.m. – 10:00 p.m. on private property.

Vending on Public Streets	**Vending on Private Property**
NO permit is required if the following are met: ▪ Comply with all parking, stopping and standing restrictions; ▪ Maintain a 4-foot clearance on public sidewalk and 8-foot vertical clearance for pedestrian accessibility; and ▪ Only trash receptacles are allowed to be placed on the public sidewalk.	NO permit is required if property owner (or authorized agent) permission is obtained and if the following are met: ▪ The vendor has written approval from the property owner; ▪ Vendors only occupy excess parking spaces, do not park on landscaped area, and do not obstruct required loading, circulation or fire access; ▪ Presence of vendors do not exceed four hours per day and no more than three vendors at a time; and, ▪ Tables and chairs may be allowed only if they occupy excess parking spaces or non-vehicular areas (except landscaped areas other than turf).
If vendors operating on the public street do not comply with all of the general requirements and specific conditions on the public street, they could be required to leave or be cited. Food truck events on a public street or City-owned property would require a Special Event Permit under existing regulations (SMC Chapter 9.45), or a special agreement with the City.	If a property owner (or authorized agent) would like to allow more than three vendors operating at a time, or allow vendors to exceed the 4-hour time limit or to operate outside the hours of 7:00 a.m. – 10:00 p.m., the operation would be considered a temporary unenclosed use or an accessory use on the property per Title 19 (Zoning). The proposal would be reviewed through a Miscellaneous Plan Permit (reviewed at staff level). A single food truck event on private property that is open to the public would be subject to a Special Event Permit under existing regulations (SMC Chapter 9.45). Food trucks as a permanent use (such as a “food truck food court” taking over a vacant lot) and recurring food truck events (such as a monthly nighttime food truck market on an industrial property and open to the public) are subject to a Use Permit.

Block 2 of the Downtown Specific Plan District

The 100 block of Murphy Ave. is an area where a high concentration of pedestrian and commercial activity (outdoor dining and display of merchandise) on the public sidewalk and street is constant (Attachment H, Map of Block 2 of the Downtown Specific Plan District). It is the City's restaurant and entertainment center. Many of the City's special events, including the Farmer's Market, are held on Murphy. Because of the limited parking areas and potential pedestrian and vehicular hazards that may arise from commercial activity on the street and sidewalk, staff recommends prohibiting food trucks and other vendors from operating in or adjacent to Block 2 of the Downtown Specific Plan District, including the sidewalk and on-street parking along those properties. Block 2 includes the properties within the Murphy Station Heritage Landmark District and the adjacent City-owned parking lots.

Nuisance Provisions

General nuisance provisions (SMC Ch. 9.26) exist in the SMC, but staff recommends adopting nuisance provisions that are more specific to vending. These provisions would enable an enforcement officer to determine if vendors are: creating a public nuisance; located, operated or maintained in a manner that impedes vehicular and pedestrian circulation; or creates a hazard to life or property, and take the appropriate and necessary action to correct these conditions.

Code Cleanup and Reorganization

Staff proposes to reformat and clarify current pushcart vendor regulations and amend them to align them with the proposed regulations for vehicular vendors. Staff recommends placing all vendor regulations in SMC Title 5 (Business Licenses and Regulations) which contains business-specific operational standards. Vending regulations in other cities are typically located under a similar section of their municipal code. Locating these regulations under SMC Title 5 would provide consistency across cities and make it easier for the public to find such regulations.

Staff proposes to clarify the City's temporary unenclosed use regulations in Title 19 (Zoning) and the Special Event Permit process (Chapter 9.45). Vending is a type of temporary unenclosed use, and different impacts are associated with the scale or form of operation. A single vendor operating on private property outside the allowable hours of operation in the proposed ordinance would have minimal impacts compared to an event that is open and advertised to the public where several vendors are operating at the same time. The proposed amendments will better define when a use or event requires a Miscellaneous Plan Permit versus a Special Event Permit.

ENVIRONMENTAL REVIEW

A Categorical Exemption Class 5 (minor alterations in land use limitations) relieves the proposed action (any permits issued after adoption of the proposed ordinance) from California Environmental Quality Act (CEQA) provisions.

FISCAL IMPACT

Some staff time would be needed to educate existing and potential vendors of the City's new regulations. With the increased awareness of the City business license requirement, there may be a slight increase in business license tax collected.

A clean-up deposit is currently required for pushcart vendors located on the public sidewalk. Staff recommends amending the fee resolution to no longer require this deposit. Staff time and resources to administer and refund the deposit (every collected deposit has been refunded) has cost more than the deposit itself (currently $196). Operational standards for vendors to maintain their surrounding area clean, and the ability for enforcement officers to enforce this provision, also render the deposit unnecessary.

The current permit fee ($341) will continue to be required for Miscellaneous Plan Permit applications for vendor operations on private property.

PUBLIC CONTACT

Public contact was made through posting of the Planning Commission agenda on the City's official-notice bulletin board, on the City's Web site, and the availability of the agenda and report in the Office of the City Clerk. The Planning Commission and City Council public hearings were advertised in the *Sunnyvale Sun*, in accordance with City (SMC Title 19, Zoning) and state noticing requirements.

Staff held a series of outreach meetings for the various interest groups (food truck vendors, El Camino Real and downtown businesses, and the general public) in May and held an open house-style outreach meeting in September. Staff received generally positive feedback about food trucks. The community raised concerns regarding public safety, health and sanitation, unfair competition and collection of sales tax, which have been addressed in this staff report. Staff also spoke with several residents, local business owners and food truck vendors through the course of this study and has received letters from the community regarding the issue (Attachment I, Letters from the Public).

Staff also held two study sessions with the Planning Commission on the study. Commissioners were supportive of food truck regulations that ensure pedestrian and vehicular safety and incorporate food trucks into the community, especially in office/industrial areas. A commissioner suggested the future consideration of designating an area in the Downtown for food trucks. The Planning Commission also emphasized the importance of making vending

regulations and permit requirements available on the City website, which staff will implement at the completion of this study.

Staff has been conducting a public survey, which started at the end of July and will run until the Council public hearing in December. As of September 30, more than 650 persons have taken the survey. Most survey respondents identified themselves as Sunnyvale residents. Many respondents indicated they work in Sunnyvale. The results generally show a strong interest in the increased presence of food trucks in the City. Respondents stated they should primarily be in the industrial/office areas (such as Peery Park and Moffett Park) where there is a lack of food service. The majority also thought they should be on private property over public streets. While the survey results should be considered cautiously, the survey served to increase awareness of the range and complexity of views the community has regarding this subject. The survey results are available at *FoodTrucks.inSunnyvale.com.* Staff will provide updated survey results at the public hearing.

On November 26, the Planning Commission considered this study at a noticed public hearing. The Commission voted unanimously to recommend the Council take the staff recommendation with modifications to require display of a Sunnyvale business license at all times and to prohibit vending within all of Block 2, and not just within the Murphy Station Heritage Landmark District. Staff has revised the ordinance to incorporate the Planning Commission recommendations.

ALTERNATIVES

1. Introduce the proposed ordinance in Attachment B, which:
   - Establishes mobile vending operational standards for public streets and private property relating to public safety. These standards include: required distances from hydrants and driveways, fire lanes, crosswalks, etc.; hours of operation; maintenance of trash receptacles and cleanliness of surrounding area; and, prohibition of amplified speech or music;
   - Requires display or provision of proof, upon request, of licenses and permits from other agencies such as Santa Clara County Department of Environmental Health, which ensures food safety and sanitation.
   - Allows food trucks to operate on the public street and private property under specified conditions (hours of operation, duration, number of trucks per location, etc.);
   - Establishes a permitting process for requests to operate on private property that exceed specified conditions;
   - Establishes provisions that allow the City to take action if mobile vendor sales: create a public nuisance; are located, operated or maintained in a manner that impedes vehicular and pedestrian circulation; or creates a hazard to life or property; and
   - Consolidates the City's regulations on all types of vending.

2. Introduce the proposed ordinance in Attachment B with modifications.

3. Adopt the attached resolution (Attachment J, Fee Resolution) rescinding the Mobile Vendor Clean-up Deposit fee.

RECOMMENDATION

Staff recommends Alternatives 1 and 3. Staff believes the ordinance provisions directly address existing and potential conditions specific to the City, and creates a balance between regulations on public streets and private property. The ordinance establishes operational standards for mobile vendors. While a permit is only required for limited situations, the adopted regulations will provide a basis for enforcing food trucks that create public safety problems. Staff will monitor the effectiveness of the proposed regulations and will propose any future modifications if deemed necessary.

Reviewed by:

Hanson Hom, Director, Community Development Department
Reviewed by: Trudi Ryan, Planning Officer
Prepared by: Rosemarie Zulueta, Assistant Planner

Reviewed by:

Frank Grgurina, Director, Public Safety

Approved by:

Gary M. Luebbers
City Manager

Attachments

A. Study Issue Paper
B. Draft Proposed Ordinance
C. Existing City Regulations
D. Attachment Removed
E. Current Food Truck Locations
F. Almanac Article
G. Other Cities' Vending Regulations
H. Map of Block 2 of the Downtown Specific Plan District
I. Letters from the Public
J. Fee Resolution
K. Planning Commission Public Hearing Minutes of November 26, 2012

2012 Council Study Issue

CDD 12-05 Food Truck Location and Operation Requirements

Lead Department Community Development

History **1 year ago** None **2 years ago** None

1. What are the key elements of the issue? What precipitated it?

Although food trucks have been a presence in the community for years, there has been a surge in popularity by consumers. These trucks have typically served employees at their workplace, either on private property or from the public street. There has been in increase in the number of food trucks found in commercial areas of the City, such as on El Camino Real and Moffett Park, where the clientele includes workers from the area, as well as passer-bys. Some food truck companies advertise a calendar of their future locations and expected menus on those days. In some cities, there are food truck events, where several different food trucks meet at a location in a prepared-food type of farmers market.

There have been recent court cases from which certain guidelines can be construed regarding the legality of these food trucks. The City has had issues with food trucks that park along a commercial street and open for business in front of retail properties, particularly when there is a restaurant. In the past, food trucks would drive into an area, serve food within ten minutes and move on to the next location. The trend is for food trucks to stay in one location on a public street most of the day. The City has received complaints from existing businesses that these trucks negatively impact their operations, and have asked the City for assistance in dealing with the food truck operators. The businesses are complaining that the food trucks have an "unfair" advantage as the truck operators do not have to pay monthly rent for the space they occupy.

This study would include the review of recent legal decisions, review of other cities' approaches, and consideration of approaches for both private property and public right-of-way located food trucks. It would also review the impact the food trucks have on existing brick and mortar businesses.

2. How does this relate to the General Plan or existing City Policy?

Policy LT-4.2
Require new development to be compatible with the neighborhood, adjacent land uses, and the transportation system.

Policy LT-4.3
Support a full spectrum of conveniently located commercial, public, and quasi-public uses that add to the positive image of the City.

GOAL LT-6 Supportive Economic Development Environment
Sustain a strong local economy that contributes fiscal support for desired City Services and provides a mix of jobs and commercial opportunities.

Policy LT-6.1
Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy.

Policy LT-7.3
Maintain an attractive business community.

Policy LT-5.2
Integrate the use of land and the transportation system.

3. Origin of issue

City Staff Planning

4. Staff effort required to conduct study Moderate

Briefly explain the level of staff effort required
Background research of other cities' approach and legal issues; public outreach to the general public, businesses, property owners, and food truck operators, preparation of reports; and, public hearings.

5. Multiple Year Project? No **Planned Completion Year** 2012

6. Expected participation involved in the study issue process?

Does Council need to approve a work plan? No
Does this issue require review by a Board/Commission? Yes
If so, which? Planning Commission
Is a Council Study Session anticipated? No

7. Briefly explain if a budget modification will be required to study this issue

Amount of budget modification required

Explanation

8. Briefly explain potential costs of implementing study results, note estimated capital and operating costs, as well as estimated revenue/savings, include dollar amounts

Are there costs of implementation? No

Explanation

9. Staff Recommendation

Staff Recommendation Support

If 'Support', 'Drop' or 'Defer', explain
The food truck business has evolved over the past many years. In the past, they have been used to provide food for workers in an area. Recently, they have become an alternative to restaurants, and a source of fine dining. The current City codes and regulations are not sufficient to address current demand, nor recent court case decisions. This study would address recent changes, and develop regulations for private and public placement of food trucks.

Reviewed by **Approved by**

10/26/11 10/27/11

Department Director **Date** **City Manager** **Date**

ORDINANCE NO._____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CERTAIN SECTIONS OF THE SUNNYVALE MUNICIPAL CODE RELATING TO VENDING.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 1.04.050 AMENDED. Section 1.04.050 of Chapter 1.04 (General Penalty) of Title 1 (General Provisions) is hereby amended as follows:

(a) The following designated officers and employees are delegated the authority to issue citations without a warrant to any person whenever the officer or employee has reasonable cause to believe that the person to be cited has committed an act in his or her presence which is a violation of the provisions of this code:

(1) - (3) [Text unchanged.]

(4) Director of public safety and public safety officers: Chapters 5.16, 5.24, 5.26**,** 5.28, 5.32, Title 9 except for Chapters 9.72, 9.74 and 9.76, Title 10, Chapters 16.52 through 16.54, Title 19**,** Title 20 and Title 21.

(5) - (7) [Text unchanged.]

SECTION 2. CHAPTER 5.26 ADDED. Chapter 5.26 (Vending) of Title 5 (Business Licenses and Regulations) is hereby added to read as follows:

Chapter 5.26
Vending

5.26.010. Purpose.
5.26.020. Definitions.
5.26.030. Applicability.
5.26.040. General Requirements.
5.26.050. Vehicular Vending in the Public Right-of-Way.
5.26.060. Pushcart Vending in the Public Right-of-Way.
5.26.070. Vendors on Private Property.
5.26.080. Nuisances and Violations.

5.26.010. Purpose.

(a) **Findings.** The city council finds that:

(1) The primary purpose of the public streets, sidewalks, parking lots, and other public ways is for use by vehicular and pedestrian traffic;

(2) To protect the public health and safety and ensure safe pedestrian and vehicular traffic, the City needs equitable, uniform vending regulations;

(3) Unregulated vending, from pushcarts, vehicles, stands, or by persons contributes to traffic congestion and impedes the orderly movement of pedestrian and motorist traffic;

(4) The unregulated use of congested streets and sidewalks by vendors make the streets and walkways unsafe for motorists, pedestrians, and vendors;

(5) Block 2 of the Downtown Specific Plan District is the City's restaurant and entertainment center, which has a high concentration of vehicular, pedestrian and commercial activity within those properties and the adjacent public right-of-way; and

(6) Subject to appropriate standards for the public safety, health and welfare, the vending of food and other goods promotes the public interest by providing a needed service to underserved locations, activating underutilized spaces, complementing private and public properties, and promoting an attractive street environment.

(b) **Purpose.** This chapter establishes requirements for the vending of food and goods in the public right-of-way and on private property to prevent traffic, safety, and health hazards.

5.26.020. Definitions.

When used in this chapter, these terms mean the following:

(a) ~~"~~Food" means any type of edible substance or beverage.

(b) ~~"~~Goods" means any items that are not food.

(c) ~~"~~Property Owner" means the person, firm or corporation in which title in the underlying land is vested, or a duly authorized agent of such owner.

(d) ~~"~~Public right-of-way" means land which is dedicated to the public use for sidewalk, street and highway purposes, or other transportation purposes.

(e) ~~"~~Pushcart" means any nonmotorized mobile device used in the sale, barter, or offer for sale of food, goods, or merchandise or services.

(f) ~~"~~Roadway" means that portion of the public right-of-way that is improved, designed or ordinarily used for vehicular travel. ~~"~~Roadway" does not include sidewalks or parkway strips.

(g) ~~"~~Vehicle" means any vehicle or trailer, as defined in the California Vehicle Code and registered with the state, used in the sale or offer for sale of food or goods.

(h) ~~"~~Vend" means to sell, offer for sale, expose for sale, solicit offers to purchase, or to barter food, goods, or services in any public area from a stand, pushcart, motor vehicle, or by person, with or without the use of any other device or other method of transportation, other than at a fixed place of business.

(i) ~~"~~Vendor" means a person who vends, including any agent or employee of that person.

5.26.030. Applicability.

(a) **Vending.** No person may vend in the City except in compliance with this chapter.

(b) **Deliveries.** This chapter does not apply to any person engaged in delivering previously ordered merchandise or materials from, or to any store, fixed place of business or residence.

(c) **Community Events and Other Entitlements.** Any vendor included in an event which is sponsored by the City or which has been authorized by the City by a special event permit pursuant to Chapter 9.45 (Special Event Permits), lease, agreement, or other entitlements issued by the City, may be subject to different or additional requirements pursuant to the terms or conditions of such authorization.

5.26.040. General Requirements.

All vendors shall comply with the following requirements.

(a) **Sunnyvale Business License.** Vendors shall maintain and display a Sunnyvale business license at all times during operation.

(b) **Other Permits and Licenses.** Vendors shall display or keep within their vending facility, or upon their person, proof of all other applicable permits and licenses at all times during operation, including:

(1) A valid Santa Clara County Department of Environmental Health permit and certification that the vendor complies with all State and Federal laws regarding food vending, if applicable;

(2) A peddler license issued pursuant to Chapter 5.28 of this code, if the vendor is engaged in any activities subject to the requirements of that chapter;

(3) A permit pursuant to this chapter or Title 19 (Zoning) of this code to operate on the public sidewalk or private property, if applicable; and

(4) Other applicable permits and licenses required under state and federal laws.

(c) **Location Restrictions.** Vending is prohibited in any of the following locations:

(1) Block 2 properties in the Downtown Specific Plan District, including the sidewalks and on-street parking spaces on the south side of Evelyn Avenue, the west side of Sunnyvale Avenue, the north side of Washington Avenue, the east side of Frances Street, and both sides of Murphy Avenue.

(2) On any residentially used property, except as otherwise permitted by Chapter 5.28 (Peddlers), Chapter 19.42.010 (Home Occupations), or other provisions of this code.

(3) In any park, as defined under Chapter 9.62 (Public Parks), unless otherwise permitted under Chapter 9.62.

(4) In any parkway strip, landscaped area, or unpaved lot.

(5) Within 15 feet of any driveway.

(6) Within15 feet of any fire hydrant.

(7) Within 25 feet of any designated fire lane.

(8) Within 50 feet of a pedestrian crosswalk.

(9) Within 50 feet of any intersection.

(10) Within 100 feet of any bus stop sign.

(11) Within Any vision triangle, as defined in Title 19 (Zoning).

(12) In any location where solicitation is prohibited by Chapter 9.56 of this Code.

(d) **Containment of Items for Sale.** Display of items in the public right-of-way, on a fence, or any other location other than the vendor or vending facility is prohibited.

(e) **Cleanup Responsibility.** Vendors shall comply with all of the following:

(1) **Waste Container.** Have at least one clearly designated waste container within two feet of the vending facility.

(2) **Surrounding Area.** Maintain the surrounding area litter free at all times.

(3) **Disposal.** Collect and dispose all generated waste daily, consistent with applicable state and local standards. Vendors shall not dispose or allow the disposal of any generated waste in any public or private waste container other than the waste container under the control of the vendor. Disposal of waste into the city storm drain system is prohibited.

(4) **Facility Removal.** Remove the vending facility from the site immediately after operations.

(f) **Self-Sufficiency.** Vendors shall be entirely self-sufficient in regards to water, gas, electricity, and telecommunications during operations.

(g) **Noise.** Vendors shall not use, play, or employ any amplifier, loudspeaker or any other device for sound production when the mobile facility is parked or standing at any location. All other applicable noise regulations in the Sunnyvale Municipal Code and California Vehicle Code apply.

(h) **Signs.** Signs are permitted if painted on the vending facility, or affixed so that they lie flat against the vending facility. Signs shall not move, rotate, or be illuminated. Flags, banners, portable signs such as a-frames, balloons, or other decorative appurtenances, whether attached or detached, are prohibited.

5.26.050. Vehicular Vending in the Public Right-of-Way.

(a) **Vehicles on Roadway Only.** No person may vend in a roadway except from a vehicle and in compliance with this chapter. Vehicles used for vending shall meet all state and federal requirements, including licensing, registration, and other required approvals.

(b) **Parking, Stopping and Standing**. Vending may only occur when the vehicle is legally parked in a roadway. Vendors shall comply with the California Vehicle Code, Chapter 10 (Vehicles and Traffic) of the Sunnyvale Municipal Code, and with all posted parking, stopping, and standing restrictions at all times.

(c) **Hours of Operation.** Vending within the public right-of-way shall not be conducted before 8 a.m. or after 9 p.m.

(d) **Sidewalk Clearance and Queuing.** No part of the vehicle, furniture, or other equipment related to the vending operation may encroach onto the public sidewalk. Vendors may place waste containers on public sidewalks provided that a minimum 4-foot clearance for pedestrian accessibility is maintained. Vendors are responsible for managing customer queuing, ensuring pedestrian accessibility is maintained, and ensuring customers do not loiter after receiving their purchased food or goods.

5.26.060. Pushcart Vending in the Public Right-of-Way

(a) **Permit Required.** No person may vend from a pushcart on the sidewalk without first obtaining a miscellaneous plan permit from the director of community development in compliance with this chapter and following the applicable procedures in Title 19 (Zoning).

(1) **Permit Application Requirements.** Permit applications shall include all of the following information.

(A) **Vendor Contact Information.** The names and addresses of each person who will operate at the location.

(B) **Site Plan.** A fully dimensioned site plan showing the proposed vending location, footprint of the pushcart, sidewalk width, adjacent streets and property lines, driveways, landscaped areas, and sidewalk furniture.

(C) **Certificate of Insurance.** Vendors shall submit and maintain a certificate of commercial general liability insurance with a signed endorsement to the policy satisfactory to the City. The certificate of insurance shall name the City of Sunnyvale, its officers, employees, agents and volunteers as additional insured.

(D) **Additional Information.** Any information as determined necessary by the director of community development.

(2) **Fixed Location**. Vending shall occur at the specific location approved by the permit issued by the director of community development. Vending while roving is prohibited.

(3) **Hours of Operation.** Vending within the public right-of-way shall not be conducted before 8 a.m. or after 9 p.m.

(4) **Sidewalk Clearance and Queuing.** Vendors shall maintain a minimum 4-foot clearance for pedestrian accessibility on the public sidewalk. Vendors are responsible for managing customer queuing, ensuring pedestrian accessibility is maintained, and ensuring customers do not loiter after receiving their purchased food or goods.

(b) **Decision on Permit.** The director of community development may approve the permit upon such conditions as it finds desirable in the public interest, upon finding that no undue pedestrian and traffic safety, litter or parking consequences would result from the exercise of the permit.

(c) **Duration of Permit.** The permit shall be valid for one year from the date of issuance. The permit shall specify the dates of authorized use and the names of the companies or persons authorized to exercise it.

(d) **Revocation of Permit.** Any permit issued may be revoked pursuant to the procedures in Title 19 (Zoning).

5.26.070. Vending on Private Property.

(a) **Property Owner Permission.** No property owner shall allow any vendor to operate on private property except in compliance with all of the following requirements:

(1) **Written Permission.** Vendors shall have the property owner's written authorization to operate on the property in their possession at all times. The written authorization shall describe the approved location and operation schedule.

(2) **Location.**

(A) **Nonresidential Property.** Vending shall only be conducted on property used for nonresidential purposes, except as otherwise permitted by Chapter 5.28 (Peddlers), Chapter 19.42.010 (Home Occupations), or other provisions of this code.

(B) **Excess Parking.** Vendors shall only occupy parking spaces not required to meet the minimum requirements of the current permitted uses on the property per Chapter 19.46 (Parking), or of other off-site uses if those spaces are leased. This requirement does not apply if the hours of operation for the vendors and permitted uses do not coincide.

(C) **Access.** Vendors shall not occupy any paved area required for loading, circulation or fire access.

(D) **Furniture.** Tables, chairs and shade structures may be allowed in conjunction with food vendors if they occupy excess parking spaces or areas not required for loading, circulation or fire access, and removed daily after use. Tables and chairs may be on turf or mulched areas provided that precautions are taken or improvements are installed to protect and maintain landscaped areas.

(3) **Hours of Operation and Time Limit.** Vendors shall not operate before 7 a.m. or after 10 p.m. Up to three vendors may be on the property at a time, provided that the duration of vending on the property shall not exceed four hours per day. The total number of hours is not calculated per vendor. For example, if one vendor operates from 8 a.m. to 10 a.m., and another vendor operates from 9 a.m. to 11 a.m. on the same day, then the total duration from 8 a.m. to 11 a.m. of vending on the property is three hours.

(b) **Permit Required to Exceed Requirements.** Vending operations on private property beyond the requirements of this section may be allowed by permit pursuant to Title 19 (Zoning). In addition, the director of community development may require a permit whenever it appears that vending activities are having an adverse impact on the use of the property or neighboring properties, including traffic, circulation, parking availability, noise, trash, or other reasons of public health or safety.

(c) **Private Events.** This section does not apply to any private event where a vendor has obtained the property owner's written permission to cater for a private event that is held exclusively on the property and that is not open to the general public.

5.26.080. Violation.

(a) **Civil.** Any vending activity that is located, operated, or maintained in a manner that impedes vehicular and pedestrian circulation or that creates a hazard to life or property, or any condition or act in violation of this chapter or any provision of applicable state or federal law, is hereby declared a public nuisance. Such nuisance may be abated, removed or enjoined, and damages assessed therefor, in any manner provided by law.

(b) **Criminal.** In addition to any other remedies provided by law, violation of this Chapter is an infraction punishable as set forth in Chapter 1.04 of this code. Each day of violation constitutes a separate offense and may be separately punished.

SECTION 3. SECTION 9.45.030 AMENDED. Section 9.45.030 of Chapter 9.45 (Special Event Permits) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code is hereby amended in its entirety:

9.45.030. Definitions.

(a) [Text unchanged.]

(b) ~~"~~Special event" means any of the following activities:

(1) [Text unchanged.]

(2) ~~An event that requires a miscellaneous plan permit for a~~ A temporary unenclosed use ~~under~~ as defined in ~~Chapter 19.82~~ Subsection 19.61.050(a) of this code.~~, such as a festival, carnival, amusement ride, arts and crafts show, car wash, or flea market, unless excluded by the administrative guidelines adopted pursuant to this chapter.~~

(3) [Text unchanged.]

SECTION 4. SECTION 10.16.180 AMENDED. Section 10.16.180 of Chapter 10.16 (Parking Regulations) of Title 10 (Vehicles and Traffic) of the Sunnyvale Municipal Code is hereby deleted in its entirety:

~~**10.16.180. Unlawful Parking.**~~

~~Except as may be permitted expressly by the terms of a mobile vendor permit, as permitted in Chapter 19.78, no person shall place, maintain, conduct, park or allow to stand or remain any portable container, vehicle, pushcart, eating stand, wagon or car used in selling, vending, peddling, bartering or exchanging any goods, flowers or foodstuffs within the city.~~

~~(a) This section shall not apply to any person engaged in delivering merchandise from or to any store, fixed place of business or residence.~~

~~(b) A person may stand or park a vehicle used in the display, sale or offering for sale of foodstuffs in or upon any street at the request of a bona fide purchaser for a reasonable period of time, not to exceed ten minutes; provided that when such person thereafter moves any such vehicle, it shall be moved a minimum distance of two hundred fifty consecutive feet before again being stopped.~~

~~(c) This section shall not apply to vehicles or trucks used for catering or vending prepared foodstuffs and located upon private property at the invitation of the property owner, solely for the use of the owner or owner's tenants or employees.~~

SECTION 5. SECTION 19.12.040 AMENDED. Section 19.12.040 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.040. "C".

(1) – (3) [Text unchanged.]

(4) ~~"~~Civic ~~promotional~~ events" means ~~promotional~~ community events or activities of general public interest, open to the public, and which may or may not be sponsored or co-sponsored by a governmental agency or department. ~~Activities sponsored by churches, clubs, private organizations, etc., are not included.~~
(5) – (18) [Text unchanged.]

SECTION 6. CHAPTER 19.61 ADDED. Chapter 19.61 (Temporary Unenclosed Uses) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows:

Chapter 19.61
Temporary Unenclosed Uses

19.61.010. Purpose.
19.61.020. Definitions.
19.61.030. Applicability.
19.61.040. Standards.
19.61.050. Permit Requirements.
19.61.060. Permit Decision and Conditions.

19.61.010. Purpose.

This chapter establishes requirements for uses not conducted within an enclosed building, which are intended to be of limited duration of time and will not permanently alter the character or physical facilities of the site where they occur.

19.61.020. Definitions.

~~"~~Temporary unenclosed use" means a use not conducted within an enclosed building, or that is not fully screened from off-site view, which is conducted for a fixed, limited period of time with the intent to discontinue such use upon the expiration of the time period. Temporary unenclosed uses include car washes, Christmas tree or pumpkin retail sales lots, civic events, amusement rides, arts or crafts exhibitions, flea markets, religious or cultural festivals, business promotional events, and other similar events.

19.61.030. Applicability.

Temporary unenclosed uses are permitted in all zoning districts subject to the requirements of this chapter.

19.61.040. Standards.

Temporary unenclosed uses shall comply with the following standards:

(a) **Duration.**

(1) **General Duration.** Except as otherwise specified in this section, a temporary unenclosed use is limited to:

(A) 30 consecutive days at the same location. Unused hours or days within the 30-day period are not stored or credited; and

(B) One occurrence (of up to 30 consecutive days) every 60 consecutive days from the last day of the authorized occurrence.

(2) **Duration for Specified Uses.**

(A) **Christmas Tree and Pumpkin Sales Duration**. Christmas tree or pumpkin sales lots may be operated for up to 90 consecutive days per calendar year.

(B) **Car Wash Duration.** Car washes are limited to 2 consecutive days and not more than 10 total days in a 30-day period.

(C) **Vendor Duration.** A permit issued for a vendor to conduct business on a property shall be valid for up to one calendar year from the date of permit issuance. Vendors shall comply with all applicable requirements of Chapter 5.26 (Vending).

(b) **Noise.** The temporary unenclosed use must comply with all applicable noise regulations in Chapter 19.42 (Operating Standards).

(c) **Obstructions.** The public right-of-way and vision triangles shall be free of all obstructions.

(d) **Limited Hours Adjacent to Residential.** If the temporary unenclosed use is within 100 feet of any residentially zoned property, the hours of operation shall be limited to 7 a.m. to 10 p.m.

(e) **Temporary Structures and Equipment.** Temporary structures, trash, signs, and other fixtures shall be dismantled and removed within 24 hours of the last day of operation.

(f) **Licenses and Permits.** A Sunnyvale business license and other applicable permits and licenses shall be obtained.

(g) **Signs.** Signs for temporary unenclosed uses are subject to the temporary sign regulations under Chapter 19.44 (Signs).

19.61.050. Permit Requirements.

(a) **Special Event Permit.** If the temporary unenclosed use requires closure of a public street or will likely have a significant impact on traffic, parking, public safety or other public services as a result of the number of vehicles and persons expected to attend, a Special Event Permit under Chapter 9.45 (Special Event Permits) is required. Examples include a charity walk-a-thon held on public school property or an annual cultural festival. If a Special Event Permit is required for a temporary unenclosed use, a Miscellaneous Plan Permit is not required.

(b) **Miscellaneous Plan Permit.**

(1) **Events Open and Advertised to the Public**. If the temporary unenclosed use is open and advertised to the general public and does not require a Special Event Permit, a Miscellaneous Plan Permit is required in accordance with Chapter 19.82 (Miscellaneous Plan Permit). Examples include Christmas tree and pumpkin sales lots, retail sales events, or car wash fundraiser events.

(2) **Not Accommodated by the Site.** If the temporary unenclosed use is unable to be entirely accommodated on the site, but does not require a Special Event Permit, a Miscellaneous Plan Permit is required.

(3) **Vending.** If a vendor exceeds the operational standards under Section 5.26.070 (Vending on Private Property), a Miscellaneous Plan Permit is required.

(c) **No Permit.** If the temporary unenclosed use does not require a Special Event Permit, is not open and advertised to the general public, and can be entirely accommodated on the site, then the use may be conducted without a permit. An example is an onsite, outdoor company picnic for employees only.

(d) **Permanent or Recurring Events.** If the use is conducted longer or more frequently than the duration allowed in this chapter, a Use Permit is required.

19.61.060. Permit Decision and Conditions.

(a) **Decision on Miscellaneous Plan Permit.** The director may approve a Miscellaneous Plan Permit for a temporary unenclosed use pursuant to the findings in Chapter 19.82 (Miscellaneous Plan Permit) and in addition, the following findings:

(1) The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use; and

(2) The proposed use will not unreasonably affect adjacent properties, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of the City.

(b) **Decision on Use Permit.** A Use Permit application for a temporary unenclosed use shall be reviewed pursuant to the procedures and findings in Chapter 19.88 (Use Permits).

(c) **Conditions.** The director may impose conditions deemed necessary to achieve the findings for a miscellaneous plan permit including regulation of vehicular ingress and egress and traffic circulation; regulation of parking, regulation of lighting; regulation of hours and/or other characteristics of operation; improvements to site conditions; or such other conditions as the director may deem necessary and reasonable.

SECTION 7. CHAPTER 19.78 REPEALED. Chapter 19.78 (Mobile Vendor Permits) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby repealed in its entirety.

~~Chapter 19.78.~~
~~MOBILE VENDOR PERMITS~~

~~19.78.010. Purpose.~~
~~19.78.020. Standards and requirements.~~
~~19.78.030. Procedures.~~
~~19.78.040. Decisions.~~
~~19.78.050. Findings.~~

~~19.78.010. Purpose.~~

~~The purpose of this chapter is to set forth specific regulations to govern the vending of various goods, particularly flowers and foodstuffs, from locations which are not permanent. It is recognized that such transient operations could~~

~~have negative land use and traffic impacts which the city desires to minimize through a permit process. The provisions of this chapter identify and prescribe specific procedures and requirements for the filing, processing and consideration of a mobile vendor permit. These provisions shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expiration, extensions, revocation and infractions.~~

~~19.78.020. Standards and requirements.~~

~~(a) Mobile vendor permits shall be issued only for the sale of cut flowers and prepared foodstuffs, except for the downtown city plaza, where additional goods may be sold as deemed appropriate by the director of community development.~~

~~(b) Permitted facilities include portable containers, pushcart seating stands and wagons.~~

~~(c) Prohibited facilities include automobiles, trucks and other vehicles defined in California Vehicle Code Section 670, as amended.~~

~~(d) Permissible signage for mobile vending facilities are signs painted on the sides, not exceeding five feet in width or height. No other signs, flags or banners, whether attached or detached, are permitted.~~

~~(e) Each facility shall provide use of at least one trash receptacle.~~

~~(f) Vendor shall maintain a Sunnyvale business license.~~

~~(g) Vendor shall remove all litter or is subject to forfeiture of the cleaning deposit.~~

~~(h) Vendor must comply with all applicable health and sanitation regulations.~~

~~19.78.030. Procedures.~~

~~(a) Permitted Locations. A mobile vendor permit shall authorize placement only upon the public sidewalk, paved private property or the downtown city plaza.~~

~~(b) Duration of Permit. A mobile vendor permit shall not exceed one calendar year. The permit shall specify dates of authorized use and the names of the companies or persons authorized to exercise it.~~

~~(c) Prohibited Locations. Notwithstanding the terms of any mobile vendor permit, no person shall place, maintain, conduct, park or allow to stand or remain any portable container, vehicle, pushcart, eating stand, wagon or car used in selling, vending, peddling, bartering or exchanging any goods, flowers or foodstuffs in any of the following places within the city:~~

~~(1) In or upon any street;~~

~~(2) Upon any unpaved private property;~~

~~(3) On any private property which contains fewer parking spaces than the minimum number required by Chapter 19.46, regardless of whether the property has a variance or legal nonconforming status;~~

~~(4) At any location on private property separated from the public right-of-way by landscaping or vegetation, unless reasonable precautions are taken or improvements are installed sufficient to protect such landscaping from destruction by the vendor or vending facility customers;~~

~~(5) Within fifteen feet of any fire hydrant or public safety alarm box, or driveway;~~

~~(6) Upon any sidewalk or private property within twenty-five feet of any bicycle lane designated pursuant to Section 10.56.260;~~

~~(7) Upon any sidewalk within twenty-five feet of any "no parking" zone designated pursuant to the provisions of Title 10, during the times when such parking prohibition is in effect;~~

~~(8) Upon any private property within twenty-five feet of any designated fire lane unless specifically allowed by the director of community development in connection with a mobile vendor permit;~~

~~(9) Within any forty-foot corner vision triangle defined by Section 19.46.040;~~

~~(10) On private property within fifty feet of a "no parking" zone designated pursuant to the provisions of Title 10, during the times when such parking prohibition is in effect;~~

~~(11) Within one hundred feet of any public transit "bus stop" sign;~~

~~(12) Within three hundred feet of the nearest property line measured along any public street or sidewalk, upon which is located a public school building, a public park, playground, library building, city administrative building, city recreational center, or a take out or a fast food restaurant. This subsection shall not apply to flower vendors or vendors approved for the downtown city plaza;~~

~~(13) Within three hundred feet of a like mobile vendor, except where separated by a public street with four or more travel lanes.~~

~~(d) Parking Limited to Location in Permit—Revocation. Whenever any mobile vendor permit is approved and a particular location to park or stand any portable container, vehicle, pushcart, eating stand, wagon or car is specified, such device may stand or park only in the location designated in the permit. In the event that the holder of a permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section, the permit shall be revoked by the director of community development upon the filing of the record of such conviction with the department, and no permit shall be issued to that person pursuant to this chapter until six months have elapsed from the date of such revocation.~~

~~19.78.040. Decisions.~~

~~(a) The director of community development, without notice or hearing, may:~~

~~(1) Approve the mobile vendor permit as requested or as changed, modified or conditioned by the director, if the director finds that the use or project as approved meets the required finding.~~

~~(2) Deny the mobile vendor permit if the director finds that the use or project would not meet the required finding.~~

~~(b) After receiving an appeal from the decision of the director of community development on a requested mobile vendor permit, and following a public hearing, the city council by the affirmative vote of a majority of its voting members may:~~

~~(1) Approve the mobile vendor permit as requested or as changed, modified or conditioned by the city council, if the council finds that the use or project as approved meets the required finding.~~

~~(2) Deny the mobile vendor permit if the city council finds that the use or project would not meet the required finding.~~

~~(c) The city council, upon motion of any councilmember and following a public hearing, may revoke a mobile vendor permit when the city council finds a violation of or noncompliance with the terms of such permit.~~

~~**19.78.050. Findings.**~~

~~The director or city council may approve any mobile vendor permit upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that no undue traffic safety, litter or parking consequences would result from the exercise of the permit.~~

SECTION 8. SECTION 19.82.020 AMENDED. Section 19.82.020 of Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.82.020. When required.

(a)– (b) [Text unchanged.]

(c) ~~In the P-F, C-1, C-2, C-3, C-4, O, M-S and M-3 zoning districts, subject to the provisions of Section 19.82.030, t~~Temporary unenclosed uses subject to Chapter 19.61(Temporary Unenclosed Uses) or appurtenant uses are permitted for:

(1) – (14) [Text unchanged.]

(d) – (k) [Text unchanged.]

SECTION 9. SECTION 19.82.030 AMENDED. Section 19.82.030 of Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.82.030. Procedures.

(a) Upon a decision by the city council to approve or deny an application on appeal for a determination of a finding of convenience or necessity, the director of community development is authorized to prepare a letter addressed to the applicant on behalf of the city, declaring that the city has made a determination that the public convenience or necessity would or would not be served by issuance of a permit for the purposes of Business and Professions Code 23958.4(b)(2), and that such determination shall be final.

~~(b) Temporary unenclosed uses for amusement rides, arts or crafts exhibitions or shows, carnivals, car washes, Christmas tree or pumpkin sales lot, civic promotional events, flea markets, petting zoos, and religious or cultural festivals shall:~~

~~(1) Not continue for more than thirty consecutive days at the same location or on the same premises, except:~~

~~(A) Christmas tree or pumpkin sales lots which may continue for not more than one calendar year from the date of permit issuance.~~

~~(B) Car washes which may not operate more than two consecutive days and not more than ten days in any thirty-day period.~~

~~(2) Not be allowed or conducted at the same location or on the same premises if the same or similar temporary use has been allowed or conducted thereon within the previous sixty days, except Christmas tree or pumpkin sales lots which shall be renewable upon expiration.~~

~~(3) Be discontinued at the expiration of the time period for which it is allowed, and any signs, stands, poles, electric wiring or any other fixtures and appurtenances or equipment connected therewith shall be removed from the location or premises.~~

SECTION 10. SECTION 19.98.020 AMENDED. Section 19.98.020 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.020. Applications.

(a) – (b) [Text unchanged.]

~~(c) Mobile vendor permit filings shall:~~

~~(1) Be signed by the property owner if requesting a private property location;~~

~~(2) Include the names and addresses of each person who will occupy the mobile vending location for purposes of exercising the permit;~~

~~(3) Include a certificate of insurance, stating the insurer's name, policy terms, and principal amounts (combined single limit) of a policy of insurance against general liability, bodily injury, and property damage arising from the permitted activity. Each such policy shall be amendable only upon thirty days' advance written notice to the city.~~

~~(d)~~(c) Variance, use permit and special development permit filings shall include:

(1) – (3) [Text unchanged.]

(e) – (k) [Text unchanged. Renumber, consecutively (d) – (j).]

SECTION 11. SECTION 19.98.040 AMENDED. Section 19.98.040 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.040. Notice requirements.

(a) – (d) [Text unchanged.]

~~(e) Mobile Vendor Permits. For a mobile vendor permit, notice of an approval of a permit shall:~~

~~(1) Be posted at the permit location within five days of approving a permit;~~

~~(2) Be sent to all occupants and owners of immediately adjacent properties.~~

~~(f)~~(e) Major Permits. For use permits, special development permits, and variances determined not to be exempt from the California Environmental Quality Act (major permits), notice of the time and place of each public hearing required as a condition precedent to the consideration of the approving or revocation of a permit shall be given as prescribed by the California Environmental Quality Act prior to the day of the hearing in the following manner:

(1) – (3) [Text unchanged.]

(g) – (n) [Text unchanged. Renumber, consecutively (f) – (m).]

SECTION 12. SECTION 19.98.060 AMENDED. Section 19.98.060 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.060. Failure to act—Director of community development—Planning commission—City council.

(a) [Text unchanged.]

~~(b) Failure of the city council to act on an appeal of a mobile vendor permit within thirty days shall be considered as a final denial of the permit appeal.~~

SECTION 13. SECTION 19.98.070 AMENDED. Section 19.98.070 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.070. Appeals.

(a) – (c) [Text unchanged.]

(1) Any decision by the director of community development may be appealed to the planning commission and city council, except:

(A) – (E) [Text unchanged.]

~~(F) A decision by the director on a mobile vendor permit where the appeal is directed to the city council.~~

~~(G)~~(F) A decision by the director that a mobile home park is undergoing a conversion due to reduced occupancy under Chapter 19.72 (Mobile Home Park Conversions) where the appeal is directed to the city council.

~~(H)~~(G) A decision by the director regarding a heritage landmark, heritage resource or property located within a heritage landmark district or heritage resource district, where the appeal is directed to the heritage preservation commission, whose decision may be appealed to the city council.

(2) – (5) [Text unchanged.]

(d) [Text unchanged.]

SECTION 14. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. Any permits issued after adoption of this ordinance are categorically exempt (Class 5) from CEQA pursuant to Title 14 of the California Code of Regulations, Section 15305 (Minor Alterations in Land Use Limitations).

SECTION 15. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 16. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 17. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2012, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2012, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: APPROVED:

_____ _____

City Clerk Mayor
Date of Attestation: _____

SEAL

APPROVED AS TO FORM:

_____

Joan A. Borger, City Attorney

EXISTING CITY REGULATIONS RELATING TO FOOD TRUCKS

- **Public Street:** All parking restrictions apply. Sunnyvale Municipal Code (SMC) Section 10.16.180 (Unlawful parking) allows food trucks to stop at the request of a customer, park for up to 10 minutes to sell food, then must move 250 consecutive feet. This "10-minute rule" is common throughout the state. Cities adopted some form of it decades ago as the old "ice cream truck exemption". As discussed in the report, several cities have faced legal challenges to this time limit rule on the basis that it violates state law.

- **Private Property:**
  - **Private Catering:** Private catering on any property at the invitation of the owner, such as catering an employee lunch, is allowed without a land use permit.
  - **Temporary Use:** Proposals for temporary outdoor events (one-time or limited duration), such as an outdoor company party at their site or a business promotional sales event that includes a food truck, are subject to a temporary land use permit reviewed by Planning Division staff.
  - **Permanent Use:** The Zoning Code allows consideration of unenclosed (not within a building) permitted or conditionally permitted uses in commercial and industrial zoning districts through a conditional use permit reviewed at a public hearing. Food truck operations fall under this general category and therefore required to obtain a conditional use permit to permanently operate on commercial or industrial property.

- **Community Events:** Proposals for a food truck community event are reviewed through the City's Special Event Permit process, just like any festival or parade open to the public. School events held on school district property are exempt from City land use or special event permits, unless the event will require the City's assistance (for example, for traffic or intersection control).

- **Public Parks and Plazas:** SMC Section 9.62.070(f) (Conduct - Prohibited acts) and Sunnyvale Municipal Code 9.62.080 (Merchandising, advertising and signs - Prohibited acts) prohibit any kind of vending in public parks, including the downtown plaza, without a special agreement or permit with the City as a de-facto landlord (Department of Public Works, Parks Division, or Community Services Department).

- **Business License:** A Sunnyvale business license is required to do business in the City. The purpose of the business license is to collect a tax, which is based on the number of employees of a business, regardless of the business type. A food truck business is required to pay the same amount of tax as a restaurant establishment with the same number of employees.

  The business license is not intended for regulation of the business. Other City permits may apply depending on the type of business and its location.

- **Mobile Vendor Permit Ordinance:** SMC Chapter 19.78 (Mobile Vendor Permits) regulates the daily operation of pushcart vendors selling food or cut flowers on private property or the public sidewalk. The permit is reviewed at staff level (no public hearing). The permit is location-specific, which effectively prohibits roving vendors. The ordinance was adopted to address an increase in pushcart vendors in the City. At that time, food trucks were still operating as ice cream trucks or lunch trucks, and the 10-minute rule applied. This permit does not apply to, and cannot be issued for, vehicular vendors.

Attachment D Removed.

Attachment E provided on the website as separate files due to file size.

Uploaded: Tuesday, July 17, 2012, 6:10 PM
Updated: Thursday, July 19, 2012, 9:16 AM

Select FILE --> PRINT to print this story.

The Almanac

Feature story: Which way did the food trucks go?

Grand Jury recommends random inspections, but inspectors say trucks hard to find

==I Click on photos to enlarge and see captions.==

==B By Elena Kadvany==

==B Special to the Almanac==

Coca-Cola braised pork steamed buns? Check. Chicken tikka masala burrito? Check. Refrigeration, potable water, clean food practices in food trucks? Not officially checked yet, according to the San Mateo County Grand Jury.

According to "Food-Borne Illness: A Moving Target," a grand jury report released July 2, the food truck business needs to be more strictly monitored by the county's Environmental Health Division.

The report was not spurred by a specific incident or an alarming number of foodborne illness complaints. The number of complaints in the past five years in San Mateo County is actually about the same for food trucks as restaurants, according to the report. In 2010, three of 177 reported incidents were food-truck related. Last year, two of 186 were.

Instead, the growing popularity of food trucks drew the grand jury's attention. "This is a new way of presenting food, its welcome, some of it is really fantastic and we just wanted to be sure that we're doing what we should as the county to protect all of us," said grand jury foreman Bruce MacMillan.

"We wanted to make sure that they're regulated, if you will, in a way that maintains public health standards. We take a longer view of what should happen and what should change."

At the heart of the report's recommendations is a desire to make sure the rising popularity of food trucks as a dining option is matched by an inspection process equivalent to the level of inspection at brick and mortar restaurants.

==B Checking the box==

Currently, the food truck inspection process in San Mateo County works like this, according to the report: Food truck operators apply for a permit and meet certain requirements. They must show proof that they have already completed food safety certification training or will do so within 60 days after their permit has been issued.

They also must register with a commissary, a designated facility where trucks can park, clean their facilities, discharge waste, and use other services. Food truck operators are required to return to their commissary at the end of each day, but not all of them do so.

This makes the inspection process more difficult, said Mr. MacMillan.

Food trucks also go through an initial inspection by the county, the report said, but at this early point there's typically no food or hygiene to inspect, as operations have not officially begun.

Once in operation, food trucks are required to go through an annual permit and inspection process every February. Even at this point, no food handling or preparation takes place during the review.

"They can ask, does it have proper refrigeration? Yes. Does it have potable water? Yes. Does it have the number of sanitary supplies that it should? Yes. It's kind of a box-checking exercise," said Mr. MacMillan.

And this year, he added, only 60 percent of the county's 146 licensed food trucks showed up for their annual inspection.

To the grand jury, this means that action needs to be taken now to improve the process. The report proposes that food truck inspections be more like those at restaurants, where inspectors show up unannounced to observe food handling practices. It also suggests that major violations, both restaurant and food truck related, should be posted on the Environmental Health Division's website so the public is better informed about the food they're eating.

"We have no reason to believe that food trucks aren't operating at a very high standard now. They very well may be," Mr. MacMillan said. He added that the truck operators are more than willing to be inspected. "It's good not only for the general public, but also for the food truck business."

San Diego County has the same idea. Although it also reports low rates of foodborne illness related to trucks, according to county staff, it recently passed an ordinance requiring all 1,100 of its registered food trucks to display the same health inspection letter grades as restaurants via a decal in the front window. The new law, passed July 11, takes effect in September. The county is also working on a computerized truck mapping system to make unannounced inspections easier. As trucks start serving more complex items like those on a restaurant menu, the risk of illness increases, county communications officer Gig Conaughton said.

==B Follow the tweets==

In San Mateo County, restaurants have to pass random inspections, unlike food trucks. The grand jury report states that inspectors say it's too time-consuming to find the trucks for unannounced inspections, and recommends that the county require notice of route changes.

Due to their mobile nature, food trucks rely on keeping customers updated about their current location via Twitter and Facebook posts. For example, on June 25, popular food truck "Mama's Empanadas" sent out a Twitter blast: "Yum food trucks tonight at SanMateo #Caltrain Lot, w our fav @chairmantruck! @curryupnow @HapaSF @MamasEmpanadasSF @hiyaaaroll @PolloFrittoSF"

Another truck, An the Go (which frequents Edgewood Eats at Edgewood Plaza in Palo Alto), posts its weekly schedule on both Twitter and Facebook, as do other trucks.

"We have grappled with this conundrum for many years," said Dean Peterson, the county's director of environmental health. "Social media and food truck specific events have helped, however, only a small fraction of the trucks regularly utilize social media to announce their locations, and even then we have found those to not to be fully reliable."

The food trucks of today are different from those on the streets 10, even five, years ago. They are cooking up increasingly exotic cuisine that requires on-site cooking rather than prior preparation. Whereas Mr. MacMillan said he sees this as a cause for concern, Christina Galletti, owner and operator of "Mama's Empanadas," said that the "the stereotype of a roach coach" food truck is a thing of the past.

"We're more professional, cleaner," she said.

Ms. Galletti also said that San Mateo County already does a thorough job monitoring the food safety of her truck. "I know I've been inspected numerous times, week after week at events like Moveable Feast and Off the Grid. They tend to be real good about being at those kind of events," she said.

She said that she sometimes receives notice ahead of time from the county that inspectors will be at the events.

When asked about this practice, Mr. MacMillan said that he "honestly wasn't aware" of this as a regular occurrence. "There may have been a decision at some point to do an operating inspection, but it's uncommon and it's not required."

Yet Ms. Galletti says that it is specifically at these kind of events -- large food trucks meet-ups at local parking lots or venues, such as Food Truck Night at the Willows Market in Menlo Park or Edgewood Eats at Edgewood Plaza in Palo Alto -- that she is regularly inspected and reminded of safe food practices.

She added that San Mateo County checks her truck more often than San Francisco, which conducts inspections twice a year.

Santa Clara County, with 387 food trucks under permit (up from 282 two years ago), also conducts bi-annual inspections, said Department of Environmental Health director Heather Forshey, and has had zero reports of foodborne illnesses related to food trucks.

The first inspection approves or renews the permit, and takes place at the county's facilities. The second inspection takes place in the field.

"Sometimes it's easy when they have these formal events where a number of trucks get together and they publicize it," Ms. Forshey said. "But there are often trucks that don't have a set schedule that is published and it can be challenging for any health department to find them out in the field."

For the trucks that do publish their schedules online, she said Santa Clara is looking into using social media such as Twitter to locate trucks for random, unannounced inspections. "We're always looking for new ways to identify their locations. Social media is another way of doing that."

Page 3 of 3

San Mateo County is working on its response to the grand jury report. "We're very pleased the Grand Jury is calling attention to this important issue that the Health System has been aware of and has been looking into," Mr. Peterson said. "We look forward to working with the Board of Supervisors to provide a more detailed response to the specific ideas in the Grand Jury Report."

[almanacnews.com ==B ■ Food trucks in Portola Valley: 'I'm spanking clean' ==]

Find this article at:
http://www.almanacnews.com/news/show_story.php?story_id=11635

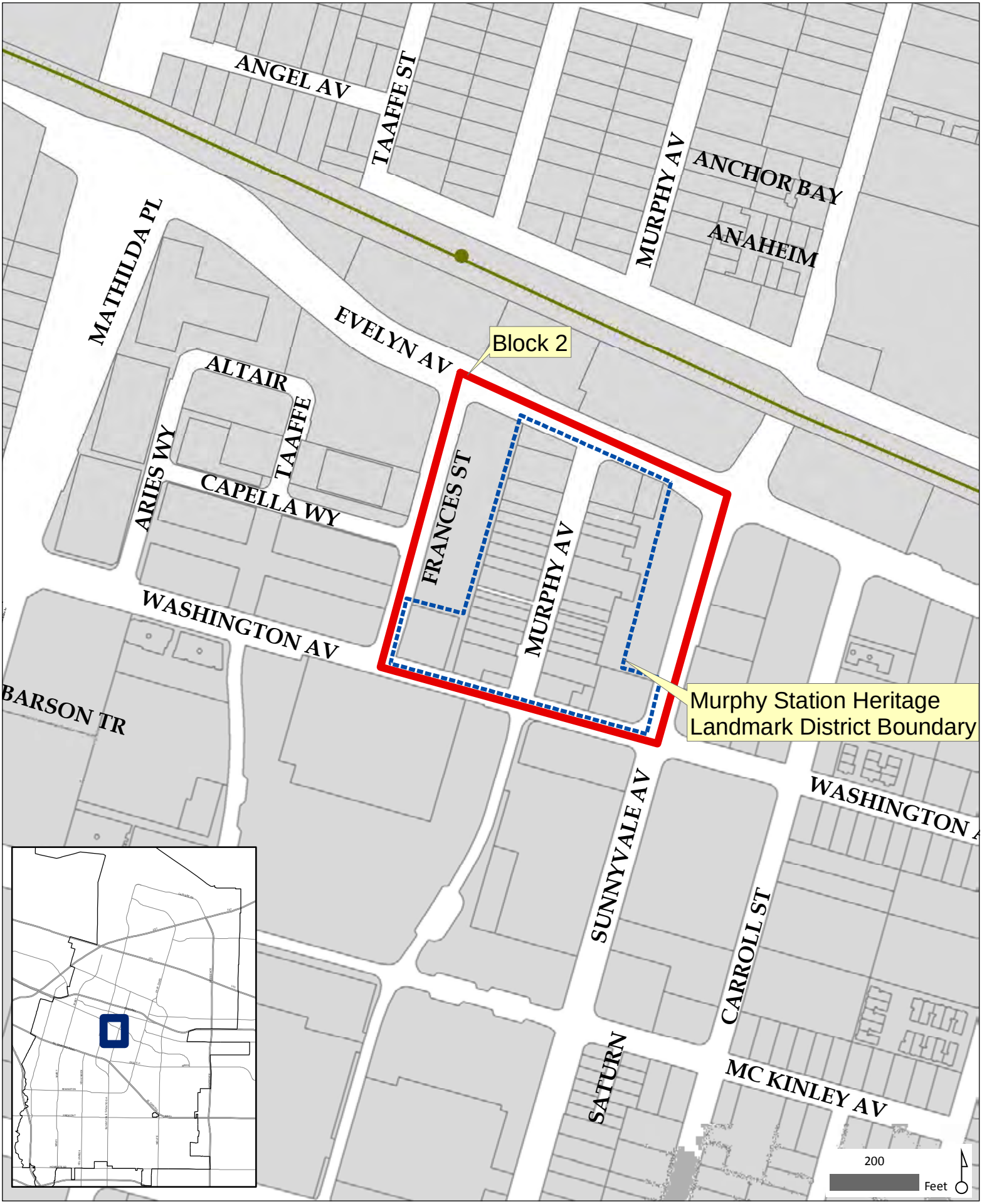
Other Cities' Vending Regulations

CITY	PERMIT REQUIREMENT	ALLOWABLE PRODUCTS	LIMIT ON NUMBER OF ISSUED PERMITS	PERMIT EXPIRATION	SPECIFIC AREAS	DISTANCE FROM USES	LIMIT ON NUMBER PER LOCATION
SUNNYVALE (food truck)	STREET: None	Food	STREET: Not applicable	STREET: None	STREET: None	STREET: None	STREET: None
	PROPERTY: Use Permit		PROPERTY: None	PROPERTY: Use Permit expiration	PROPERTY: Only zones where commercial uses are allowed	PROPERTY: None	PROPERTY: None
SUNNYVALE (mobile vendor)	Mobile Vendor Permit on private property and Street sidewalk only	Food or cut flowers	None	1 year	STREET: Sidewalk and Downtown City Plaza	300 ft from: public school, public park, playground, public buildings and take out/fast food restaurant, except in Downtown	Must be 300' from another vendor
					PROPERTY: Any		
ALAMEDA	STREET: Encroachment Permit (DPW)	Food or food products	STREET: None	1 year + administrative renewals	STREET: None	1 block from school properties during 8 a.m. to 5 p.m.	STREET: None
	PROPERTY: Use Permit (CDD)		PROPERTY: None		PROPERTY: None		PROPERTY: None
SAN FRANCISCO	STREET: Mobile Food Facility Permit (DPW)	Food (Peddler's Permit for other products)	7 separate MFF permits; Pushcart Peddler can have more than 7 if dated before July 19, 1995. Previous permits don't count towards the 7.	1 year	STREET: Any location must meet regulations and be approved by city manager	STREET: must be 1,500' from school property during 8 a.m.-5 p.m.	STREET: Multiple MFF can be in one location
	PROPERTY: Temporary Use Permit				PROPERTY: Must specify location and placement		PROPERTY: can be on PROPERTY property with approval of city and owner of property
BERKELEY	STREET: Mobile Catering permit	Food and Art	single license at a time	1 year	Commercially zoned areas along Bancroft Way and College and Telegraph avenues; city manager may allocate available sites in commercial zones under his/her discretion	None	None
					PROPERTY: campus property can be used under schools permission		
OAKLAND (NEW, INTERIM)	STREET: Food vending group site permit	Food or Food Products	Max 2 permits per applicant	1 year	Only within designated commercial/industrial areas called "group sites"	100' from public school, park or restaurant, unless written permission is obtained	Not specified
SAN JOSE	Peddler business permit	Food and Flowers	None	1 year	Sidewalk and downtown vendors area	No stopping on public street, 500' from school property, prohibited from arena peddling zone	None
SANTA CRUZ	Mobile vending permit	Fruits, vegetables and prepackaged food	Not specified	Not specified	Industrial and residential areas only	300' from schools and parks	Not specified
MANHATTAN BEACH	Vendor permit/ temporary use permit only able to use sidewalks	Food or Food Products	None	30 days temporary use	Must be given location by chief of police/ OR Can't stay in one place for more than 10 minutes at a time	10' from business entrances; 35' from another vendor; prohibited on beaches and public parks; 300' from schools	Not specified
WEST HOLLYWOOD	STREET: Encroachment Permit(longer than 60 minutes)	Food or Food Products	None	Not specified	STREET: Sidewalks	STREET: 1 block from school property during school hours, and 1 block of public park during special events	Not specified
	PROPERTY: must have written letter from owner to be in area				PROPERTY: Any with permission	PROPERTY: None	

Other Cities' Vending Regulations

CITY	TIME LIMIT/ HOURS OF OPERATION	PROOF OF LICENSES	SITE REQUIREMENTS						SIGNAGE
			SIDEWALK CLEARANCE	NOISE	TRASH	LIGHTING	SEATING	OTHER	
SUNNYVALE (food truck)	STREET: 10 mins then move 250 ft, no specified hours	STREET: None	None	STREET: None	STREET: None	STREET: None	STREET: None	STREET: None	STREET: None
	PROPERTY: None	PROPERTY: None		PROPERTY: None	PROPERTY: None	PROPERTY: None	PROPERTY: None	PROPERTY: None	PROPERTY: None
SUNNYVALE (mobile vendor)	STREET: None	Business License/ Health Permit	None	STREET: None	Must provide one trash bin	STREET: None	STREET: None	STREET: Paved area; 15' from hydrants& driveways; 25' from bike lanes & "no parking" zones	Single sign painted on side, 5' max in any dimension
	PROPERTY: None			PROPERTY: None		PROPERTY: None	PROPERTY: None	PROPERTY: Paved area; away from landscaping buffer; 15' from hydrants&driveways; 25' from bike & fire lanes; 50' from "no parking" zone; 100'from bus stop	
ALAMEDA	6 a.m. - midnight	Business License, Health Permit from County, Hazardous Materials Permit if propane is 10 gallons or more	None	No amplified sound	No dumping in storm drain; provide garbage, recycling and compost bins	Provide for customer safety; direct downwards	City has discretion depending on available space	None	No portable "A" frame signs
SAN FRANCISCO	STREET: 6 a.m- 3 a.m next day	Visible to public; MFF permit, SF business registration certificate, DPH certification of sanitation decal, id card, sffd inspection decal, description of approved locations, approved hours of operation	Min. 6 ft path of travel	Keep area quiet	Must provide trash bins and responsible for 100' radius of their spot	None	Not specified	STREET: 5' from curb return; 6' from street furniture; 7' from fire hydrant; 8' from bus zones; 12' from bus zones	Not specified
	PROPERTY: Temporary MFFs not allowed more than either 3 or 6 days each week for a maximum of 12 hours a day.							PROPERTY: None	
BERKELEY	STREET: 7 a.m- 9 p.m, facilities may not remain between hours of 9:30 p.m. and 6:30 a.m.	Health permit	None	No audio advertising	32 gallon trash bin	None	No tables or chairs	Locations must be approved by city manager, only 5 spots for food vending, only way to become a new vendor is to buy the spot from an existing vendor	Proportional to cart; Up to 1/3 of front of cart can be used to display menu and price; signs can't move, be illuminated, or distracting; permanently attached, temp signs prohibited
OAKLAND (NEW, INTERIM)	Max 2 days/week and a max of 40 days in 12-months, Max 4 hours a day, 7 a.m.- 3 a.m.	Food site permit, proof of liability insurance, business tax certificate, health department decal, valid health permit	5' sidewalk	Comply with city's noise ordinances	32 gallon trashcan w/in 15', responsible for 100' radius	Lights required for consumer safety	No furniture allowed	Readily accessible bathroom shall be located within 200' with proof of permission	Max 3 signs attached to unit and max 30 square feet of per unit
SAN JOSE	7 p.m. or one half hour after sunset(whichever comes first) to 10 a.m. the next morning	Approved location permit, peddler employee license	None	No use of loudspeaker between 7 p.m.- 10 a.m.	one garbage bin 30 gallon max	None	no tables, chairs, or stands	Chief of police must approve all locations	Not specified
SANTA CRUZ	STREET: 15 mins, then move 1 block	County Health Permit, City business license, & Background check	Not specified	No amplified sound, bells OK	Not specified		Not specified	No vending in areas where it may impede or block traffic, ready made food only	Not specified
MANHATTAN BEACH	10 a.m.- 9 p.m., no more than three days a week on a single property	LA county department of heath permit, business license	None	No sound loud enough to hear from adjacent buildings	Maintain trash bin and its vicinity	None	None	Must have a readily available toilet and handwashing station located within 200' for trucks parked more than an hour	10' from bus stops, street corners/crosswalks; 25' from any stoplight/stop signs
WEST HOLLYWOOD	1 hour limit on one block, can use same block after 4 hours	County Health Permit, City business license, & I.D.	None	None	Provide garbage bins, responsible for 25' radius	None	None	Locations approved by city council	Not specified
	Max 2 hours in a 24 hr period without conditional permit								

Block 2 of the Downtown Specific Plan District



CRM - Answer Point: Planning

Add Request **Request** Report Help **RZulueta**

Find Criteria Find Clear

Req. # 21508

Req. #

Staff

Sort Req. # Desc

Find Result Prev Next

1 match found at 3:23:23 pm.

21508 . C . 06-01-12 . Food Truck Study

Action Reply Reassign Close with no reply **Reopen** Print Request

Request	21508 **1 of 1** **Emailed reply to requester, status is Closed.**	**Status**	**Closed**
Assigned To	RZulueta	**Priority, Contact**	Regular WebForm
From	Chuck Kim	**Receive Date**	06-01-12 8:07 am
To	Planning <planning@ci.sunnyvale.ca.us>	**Reply Needed**	**Yes**
Subject	Food Truck Study	**Close Date**	06-01-12 3:23 pm

Message Go meet the food truck operators and find out what city can do to help their business. This operator is in no competition to the established business (brick/mortar). The business model seems mor of seasonal.... 1. The food truck operators should know good locations (business 101). 2. Perform a prompt door to door survey of residents/tennants within 500 feet of the location (yes/no vote for daily or weekly operations for 1 month or 3 months). 3. Charge fee for maintenance/upkeep cost (+alpha for city revenue) to the operators. Keep in mind that the operators are new/under capitalized business people. 4. Suggest to permit minimum 3 trucks and maximum 7 trucks per location.

Actions

Action Reassign
Date 06-01-12 2:54 pm
From Anne Lee - Community Development
To Rosemarie Zulueta - Planning
Subject Web Request - Reassign 21508 from: Anne Lee to: RZulueta, subject: Food Truck Study
Message Rosemarie:
Pls respond. Thx.

Action ReplyClosed
Date 06-01-12 3:23 pm
From planning@ci.sunnyvale.ca.us - Planning
To
bc mhodge@ci.sunnyvale.ca.us
Subject Re: Food Truck Study
Message Dear Chuck Kim,

Thank you for your comments and suggestions on the Food Truck study. We held a series of outreach meetings on the study last week for different interest groups, including food truck operators. Unfortunately, none attended. I may just have to contact them directly. We do plan on having additional outreach meetings this summer once we have gathered more information and are able to put together some options for appropriate regulations in the City.

Please contact me directly if you would like to discuss your comments and suggestions in greater detail. Also, with your permission, I can place your contact information on a mailing list to keep you updated on the study. You may also visit *FoodTrucks.InSunnyvale.com* to keep updated.Thanks again.

Thank you,
Rosemarie Zulueta, Assistant Planner
Planning Division, Community Development Dept.
(408) 730-7437
rzulueta@ci.sunnyvale.ca.us

foodtrucks AP - Re: food trucks

From: Rosemarie Zulueta
To: AP, foodtrucks;
Date: 6/6/2012 2:21 PM
Subject: Re: food trucks
CC: Gunvalsen, Christy; Hodge, Mariya

I'm sorry Julian, I forgot to introduce myself and include my contact information in that email. I'm Rosemarie Zulueta and my contact information is below:

Rosemarie Zulueta, Assistant Planner
Community Development Department
City of Sunnyvale
Phone: (408) 730-7437
rzulueta@ci.sunnyvale.ca.us
The Department of Community Development is innovative in promoting sustainable development while enhancing the economy, community character and quality of life in Sunnyvale.

Save the environment. Please don't print this email unless you really need to.

>>> foodtrucks AP 6/6/2012 2:20 PM >>>
Hello Julian,

Thank you for your comments and interest in this study about location and operation requirements for food trucks. Other Sunnyvale business owners have expressed concerns similar to yours, and impacts to existing businesses is one of the many challenges we face in developing food truck regulations that are appropriate for Sunnyvale. One of the things we have run into in considering these "unfair competition" concerns is that California State Law only allows cities to do to come up with reasonable location and operation requirements based on public safety, such as pedestrian safety, making sure public sidewalks are not blocked, avoiding traffic hazards, etc. Some cities we have researched so far do require food trucks to be a certain distance away from high traffic generating uses like public schools, public parks and even fast food restaurants.

Enforcement is definitely another challenge--we need to be able to have clear regulations that are easy to understand and enforce. Our current regulations on how they can operate on the public street (park up to 10 minutes then move 250 feet) can't be easily enforced, and many other cities that have similar regulations have been legally challenged on these regulations. It is also unclear whether Sunnyvale can enforce this 10-minute rule on El Camino Real, which is a state highway. Also another challenge is that other agencies, such as County Health, are responsible for making sure food trucks have the necessary permits and licenses and are operating safely. What some cities have done is require a local permit for any food truck operating in the city and through that process, they can make sure the food truck has all the necessary permits and licenses from other agencies. I have included in this email Christy Gunvalsen, Neighborhood Preservation Manager, who is assisting me in this study so that she is aware of the enforcement concerns that you have raised.

We are just starting the study, so thank you for providing input early into the process. I did hold some outreach meetings in May (visit *FoodTrucks.InSunnyvale.com* for the slide presentation), but I do plan to hold more later this summer once staff has put together some options to obtain the community's feedback on. I will make sure your email address is on this study's mailing list so that you can be notified of any upcoming meetings. Please feel free to give me a call at (408) 730-7437 if you have additional questions or would like to discuss the study some more. I can also meet with you and tell you more details about the information in the slide presentation from the outreach meetings if you'd like.

Thanks again.

>>> < 6/4/2012 6:29 PM >>>

Hi,

I own a mexican restaurant for 20 years here in sunnyvale. I always been working hard trying to keep up with the huge mexican food competition. Now not only competing with concrete and brick walls restaurants that we pay big bucks on rent, We had to compete with this food trucks selling tacos for $ 1.00, Yeah, they don't pay rent for the space they are occupying, they can afford that. Those food trucks should be moving around from factorys to construction sites or any where but move away after 20 or 30 minutes and not 200 feet back and forth on the same block. Also, Are you aware of the many e legal businesses operating and advertizing in all this spanish magazines like EL AGUILA, EL AVISADOR AND LA BAMBA. Those magazines are full of food businesses specially the ones they advertize as TAQUIZAS, They cater to private homes parks mostly saturday and sunday This food businesses operate with no business licence no regulations of the kitchens where they keep inventory, no health licence, no seller's permit, no insurance, I don't know if this the place to let you know this, But some body should look in to this. Please keep inform on this issues.

Julian Rios
Mexican Restaurant Owner

From: foodtrucks AP
To: Gates, Martin
CC: Zulueta, Rosemarie
Date: 6/12/2012 10:31 AM
Subject: Re: Foodtruck opinion

Hello Martin,

Thank you so much for providing your input on this study. The points you raise will definitely be part of the considerations in developing food truck regulations in Sunnyvale. That 10-minute rule has actually been legally challenged in other cities for not being a "reasonable time, place, and manner" as the state law allows for cities to regulate operations of food trucks, and any other vending of products from vehicles. And so far, we have seen 1 year as a typical time limit in other cities for food truck permits. The city of Oakland also limits the number of permits issued for food trucks to 60 per year.

With your permission, I can include your contact information on the mailing list for notices on any upcoming outreach meetings and to keep you updated on the study. Also with your permission, I can include your input in the staff report that will be going to Council in November. Community opinions do help guide staff in seeking possible options for regulations, so if you know of others that may be interested in this study, please encourage them to contact me.

Thanks again.

>>> Martin Gates ‹ > 6/11/2012 11:05 AM >>>
Based on what I've read in the paper and on the
http://sunnyvale.ca.gov/website, I'm convinced that the current
regulations for food trucks are
outdated and inadequate. I support the idea of having reasonable
regulations that allow food trucks to operate within Sunnyvale. For
example, removal of the 10 minute rule. I also support the idea of
requiring licensing and a fairly large limit on the number of licenses.
Certainly the licenses should also expire and not end up being like taxi
badges in NY that become valuable to the point of absurdity.

I have no interest in any food truck or restaurant other than as a customer
who likes to eat, likes variety and lives in Sunnyvale.

Thanks,

Martin Gates

From: foodtrucks AP
To:
CC: Gunvalsen, Christy; Huber, Dale; Napier, Stephen
Date: 7/24/2012 10:32 AM
Subject: Re: el taco de oro truck
Attachments: Re: food trucks

Hi Julian,

This is Rosemarie. I actually also manage this email address for the food truck study issue. We are still doing our research and trying to come up with recommendations that can address the needs and concerns of every group involved, including food truck operators, brick and mortar business owners, consumers, and various City departments. As I explained when we met several weeks ago, our current regulations do not fully address how food trucks currently operate. We have the 10-minute parking rule for food trucks operating on the street, but many other cities and counties who had a similar parking rule have since changed this regulation because of successful legal challenges about that time period being too restrictive. The City regulations on food trucks will be more clear when the City Council hopefully adopts an ordinance in November when this study issue is scheduled for their review. I have included Neighborhood Preservation staff in this email so that they are aware of your concerns.

As I also mentioned during our meeting, food truck owners, and any business, are required to comply with other governmental agencies' regulations. All businesses are responsible for obtaining all the necessary permits and licenses, in addition to any local City permits and licenses. This includes obtaining Seller's Permit from the California State Board of Equalization (http://www.boe.ca.gov/sutax/sutprograms.htm) and reporting sales taxes. We could ask to see proof of this permit as part of our proposed regulations, but it is the California Board of Equalization's responsibility to enforce the requirement to report sales taxes (http://www.boe.ca.gov/invest/salestax.htm). I am working with City Finance Department staff, which I have included in this email, to think of other ways we can address this concern.

As for advertising, the City does not have control over how a business chooses to advertise over the internet.

I will be sure to keep you updated on the progress of this study. Thanks again for providing your concerns.

Rosemarie Zulueta, Project Planner
Community Development Dept., Planning Division
City of Sunnyvale
(408) 730-7437
rzulueta@ci.sunnyvale.ca.us
The Department of Community Development is innovative in promoting sustainable development while enhancing the economy, community character and quality of life in Sunnyvale.

>>> 7/23/2012 8:22 PM >>>

Hi,

My name is Julian Rios, I own El Caminito Restaurant on 510 E. El Camino Real. I had a meeting with Rosemarie Zulueta to discuss about this truck being an unfair competition with all of us that have a brick and wall mexican restaurants and paying big money in rent, property taxes and all kind of taxes. Now this person who owns this trucks doesn't pay rent space or property taxes, I really dougth if he pays all the sales taxes, He has physical address for his trucks. 112 E. El Camino Real, Sunnyvale, Ca. That's what I saw on YELP. How can he get away with advertizing with a physical address. Can you please reply to my email and let me know how are the regulations about this trucks going. The whole City streets are filling up with this "eye sores".

Thank you,

julian E. Rios
El Caminito Mexican and Sea Food Restaurant

From: raj patel
To: <foodtrucks@ci.sunnyvale.ca.us>
Date: 7/25/2012 7:41 PM
Subject: i think it is suck

Hello Rosemaire,

My name is rajesh patel i own retail shop on el camino real, sunnyvale.

i do not own any restaurant or my family.

This is good idea in big city like san francisco, san jose, los angeles,

City get lots of sale tax from local restaurant, is this truck going
to collect sales tax from customer?

who is going to clean after they go ? i have seen lots of garbage left
behind after food trucks go.

if they go in front of restaurant and sell then how will restaurant
will get there business & survive? In any restaurant there lunch and
dinner for few hours buszz, if truck goes on front of restaurant and
sell how will resturent will suriver by paying all high cost rents,
pay rolls, edd, insurance, all city, county safty guide line expances?

i do not own any restaurant or my family.

Regards
Rajesh Patel

foodtrucks AP - Re: Food Truck Study

From: "Planning" <planning@ci.sunnyvale.ca.us>
To: "Glenis Koehne"
Date: 7/31/2012 9:32 AM
Subject: Re: Food Truck Study
CC: "Planning AP" <planning@ci.sunnyvale.ca.us>, " CDD-Admin AP" <comdev@ci.sunnyvale.ca.us>, " foodtrucks AP" <foodtrucks@ci.sunnyvale.ca.us>

City of Sunnyvale

**Corrections to the previously sent email in blue.

Dear Glenis Koehne,

Thank you for your input on this study. The goals of this study are to look at appropriate locations for these businesses and to develop operational requirements that address public safety concerns and that are enforceable. Food trucks are required to obtain a permit from the Santa Clara County Environmental Health Department, regardless of whether a City permit is required. County Health does have requirements regarding trash receptacles, but the City can further specify these requirements.

I can include your email in the staff report that will be reviewed by the Planning Commission and City Council this fall and place your contact information on the mailing list for public hearing notifications if you would like. Please contact me directly using the contact information below.

Visit *FoodTrucks.InSunnyvale.com* for more information and updates on the study. Thanks again for your participation.

Rosemarie Zulueta, Assistant Planner
Community Development Dept., Planning Division
(408) 730-7437
rzulueta@ci.sunnyvale.ca.us

---------- Your Original Message ----------

Request #: 22386
From: Glenis Koehne
Date: 07-30-12 7:04 pm
Subject: Food Truck Study
Message: MORE FOOD VENDORS ONLY ENCOURAGE PEOPLE TO EAT MORE. THERE ARE ENOUGH PLACES TO PURCHASE PREPARED FOOD IN SUNNYVALE.....AND IT'S HEALTHIER FOR THEM TO WALK TO BUY IT INSTEAD OF HAVING IT DRIVE UP TO THEM. ALSO, THE EMPTY FOOD CONTAINERS GET DROPPED ON THE GROUND (I pick up plenty by Las Palmas Park). HELP TO KEEP PEOPLE HEALTHIER BY NOT PROVIDING THIS CONVENIENCE.

foodtrucks AP - Re: Food Truck Study

From: Niki Pasricha
To: Planning <planning@ci.sunnyvale.ca.us>
Date: 7/31/2012 11:55 AM
Subject: Re: Food Truck Study
CC: CDD-Admin AP <comdev@ci.sunnyvale.ca.us>, foodtrucks AP <foodtrucks@ci.sunnyvale.ca.us>, Planning AP <planning@ci.sunnyvale.ca.us>

Thanks, yes, pl include my email.
As a small businessman I find I spend more and more time meeting local ordinances and nuances than on growing my business. I look at local government as a partner not an adversary but I find local governments now act more as adversaries than partners. Please include these comments as well

niki pasricha
Maximum Tax Refund Guaranteed Corp

The information contained in this e-mail message is intended only for the personal and confidential use of the recipient (s) named above. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

--- On **Tue, 7/31/12, Planning <*planning@ci.sunnyvale.ca.us*>** wrote:

> From: Planning <planning@ci.sunnyvale.ca.us>
> Subject: Re: Food Truck Study
> To: "niki pasricha" ·
> Cc: "CDD-Admin AP" <comdev@ci.sunnyvale.ca.us>, " foodtrucks AP" <foodtrucks@ci.sunnyvale.ca.us>, " Planning AP" <planning@ci.sunnyvale.ca.us>
> Date: Tuesday, July 31, 2012, 9:33 AM

City of Sunnyvale

Dear niki pasricha,

Thank you for your input on this study. The goals of this study are to look at appropriate locations for these businesses and to develop operational requirements based on public safety concerns.

I can include your email in the staff report that will be reviewed by the Planning Commission and City Council this fall and place your contact information on the mailing list for public hearing notifications if you would like. Please contact me directly using the contact information below.

Visit *FoodTrucks.InSunnyvale.com* for more information and updates on the study. Thanks again for your participation.

Rosemarie Zulueta, Assistant Planner
Community Development Dept., Planning Division
(408) 730-7437
rzulueta@ci.sunnyvale.ca.us

---------- Your Original Message ----------

Request #: 22390
From: niki pasricha
Date: 07-30-12 8:57 pm
Subject: Food Truck Study
Message: Isn't mayor Bloomberg enough for this country? Pleade let the free market work and if safety is a concern then establish standards. We have more than enough government in our lives and I for one would prefer the great Patrick Henry slogan Give me liberty or give me death and not a gradual erosion of business and their livelihood

Rosemarie Zulueta - My Statement on Food Trucks (revised)

From: Dan Hugo <danhugodotcom@gmail.com>
To: Rosemarie Zulueta <rzulueta@ci.sunnyvale.ca.us>
Date: 11/16/2012 9:51 AM
Subject: My Statement on Food Trucks (revised)

With regard to the City of Sunnyvale Food Truck Location and Operation Requirements Study Issue

Mobile Food has come a long way nationwide over the last five to ten years, especially true over the last two to three years here in the Bay Area, though the classic "Taco Truck" has been thriving for a long time just about anywhere. In fact, the history of mobile food vending in the United States dates back to the late 1600s in New Amsterdam. Since then, there has always been a misalignment of goals between local governments, fixed-location "brick & mortar" restaurants, and mobile food vendors, a contentious relationship that is likely to continue.

Today we live in a mobile society, with millions of smart-phone-enabled customers connecting with each other and business via social networks, email, text messages, and the occasional voice phone call. Technology and social interaction are changing each other quickly, with the mobile consumer checking in, tweeting, sharing, buying, selling, and the next social interaction yet to be conceived. Our mobile societies are grounded in real cities and communities, though, and these change much more slowly. But change they do, and the move by some cities over time towards higher-density housing, reduced car use, increased reliance on mass transit and alternate forms of transportation will make alternate forms of commerce that much more attractive. Witness the popularity of services like Amazon.com that enable clothing, gadgets, and even food to arrive by truck to a customer's door, sometimes on the same day the order is placed. Book mobiles, blood mobiles, car detailing, dry cleaning, take-out food delivery, pet grooming... the list of services available in mobile form is growing, some are generally accepted, others are looked upon with a suspicious eye.

The great debate across the country when it comes to Mobile Food Vending is as well-known today as it was 300+ years ago. Competition with local brick & mortar restaurants. Fortunately, the debate has halted neither fixed nor mobile food, though in some areas where one is favored through local regulation the other may have been slowed. The entrepreneurial spirit found in purveyors of food, mobile or not, is unrelenting. Aside from outright barring of one of the other, both forms flourish over time, each finding their markets, each in different ways. For the hungry consumer, the debate is less contentious... distance, cuisine, well-known, new... a debate that much more enjoyable when faced with the an abundance of choice.

Restaurants fixed to the ground and those moving on wheels appear similar in many ways, and they are. It is their differences that are most interesting when it comes to the question of unfair competition. A roof in inclement weather, tables and chairs, metal utensils, real flatware, space to wait, heat and air conditioning, license fees paid to one city, and inspection by a single county health department ... all of this in the same location each day. Unfair competition indeed. Fortunately, most if not all Food Truck operators in the Bay Area are familiar with where the greater densities of restaurants are and those places are not necessarily their target markets. Complementary competition is a challenge, yes, but not necessarily unfair at all.

Since Mobile Food Vendors operating in various localities pay local sales taxes, local business license fees, and in some areas additional permit fees, and since they also pay the same health department fees that any restaurant must pay-- though often in multiple counties-- the argument in favor of tax-paying business is in some ways specious. In much the same way that a city benefits from employees of local business and consumers visiting that city each day to conduct, patronize, and even create business that benefits that city in the short and long terms, so to does mobile commerce bring value where it goes. Ultimately each city is responsible to its residents, its health and theirs, and to the future of both. It is that responsibility that should drive any regulation of virtual, fixed, and mobile commerce, including that of Food Trucks, and not the misplaced desire to regulate competition which we consumers are wont to do ourselves.

That said, Mobile Food Vendors operating within the City of Sunnyvale and by extension the customers from inside

Sunnyvale and those who travel to Sunnyvale to patronize them while they are here, will benefit from the following:

- Modern parking regulations based on safety and traffic flow efficiency. The current 10-minute parking regulations are outdated and impractical, and while there are instances where ignorance of local requirements and limitations may come into play, for the most part no mobile food vendor wishes to place their customers, themselves or their employees, their vehicles or those of others in danger in any way.
- Reduced regulation of operation on private property. Current regulations requiring that catering on private property limit the customer base to those employed by or otherwise directly related to the host are likewise impractical and outdated. Silicon Valley thrives on interconnections and networking, whether they are via ethernet cable, broadband radio, or personal interaction, limiting these mealtime interactions goes against this fundamental trait and in a larger sense, the trend in general toward more interaction anywhere.
- Increased flexibility of operating regions. As the brilliantly-composed Food Truck Survey has revealed, respondents are interested in hosting multi-vendor events within the City of Sunnyvale, and while there are locations that may be physically and geographically suitable, they are not always sensible from a business standpoint. The people want food trucks explicitly, that these same people want to know where they are and want to be able to visit them conveniently and safely is implied.
- More flexible definition of "Special Event." The current Special Event parameters tend to-- anecdotally-- preclude smaller parties from including mobile food vendors in their plans. Over time, perhaps some middle ground whereby neighborhood associations, youth athletic leagues, church groups, and other smaller organizations could take advantage of Sunnyvale's open spaces and enable smaller events on smaller budgets with shorter time lines, in much the same way as they might rent out a hall or theater.
- Clarity. This is not something that can be regulated, but it is an issue and will continue to be. Ignorance of the law is never a defense, but as regulation of Food Trucks in the City of Sunnyvale enters the modern era, there should be some understanding that the vendors who wish to contribute to the character, vitality, and coffers of this fine city must contend with the rules, regulations, limitations, processes, and proclivities of many cities around the Bay Area. Of course this fits well within the model of Sunnyvale's One Stop center, and it is something that other cities should examine during future study issues and revisions to local mobile food regulations.

As one member of the Sunnyvale Planning Commission was heard to say, "Food Trucks are a Social Activator." Mobile Food in general is a form of portable variety, an extension of convenient flexibility, and can form the basis of localized social interactions where there may otherwise be little or none. With Sunnyvale folks in cars headed to dine in other cities, to attend concerts where there are such venues, to view movies where there are theaters, and shop where there are malls, inviting more and enabling further Food Trucks to operate within the City of Sunnyvale, whether individually or in small or large groups at ad hoc or completely organized events, is another step into the 21st century in which those Sunnyvale folks may want to hang out locally, and it is one The People seem to favor.

Respectfully,

Dan Hugo
Resident, City of Sunnyvale

Reference:
http://www.nystreetvendor.com/index.php/the-history-of-nyc-street-food/

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE RESCINDING THE MOBILE VENDOR CLEAN-UP DEPOSIT FROM THE CITY'S MASTER FEE SCHEDULE

WHEREAS, a clean-up deposit is currently required for pushcart vendors located on the public sidewalk; and

WHEREAS, staff time and resources to administer and refund the deposit has cost more than the deposit itself; and

WHEREAS, the City of Sunnyvale adopted Resolution 541-12, the Master Fee Schedule, on June 19, 2012; and

WHEREAS, it is intended that the fee rescinded by this Resolution shall be removed from the Master Fee Schedule effective immediately.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. The administrative fee as set forth in Exhibit "A" attached hereto is hereby rescinded.

2. This fee is intended to be removed from the Master Fee Schedule of fees and penalties established by Resolution 541-12.

Adopted by the City Council at a regular meeting held on _____, 2012, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: APPROVED:

_____ _____
City Clerk Mayor
(SEAL)

APPROVED AS TO FORM AND LEGALITY:

_____
Michael D. Martello, Interim City Attorney

CITY OF SUNNYVALE
FISCAL YEAR 2012/2013
FEE SCHEDULE

	Fiscal Year 2012/2013	Charge Code	Object Level 3 & 4	Title (Obj. Lvl. 3)	Title (Obj. Lvl. 4)
DEPARTMENT OF COMMUNITY DEVELOPMENT					
DEVELOPMENT RELATED FEES					
NOTE: Per Government Code §66017, certain development processing fees and development impact fees are effective 60 days after adoption.					
Technology Surcharge Applies to each building and engineering project issued, and to each planning application filed.	$17.50	799041	1375	Technology Surcharge	
SECTION 4.01 PLANNING PERMIT FEES					
SINGLE-FAMILY HOMES AND DUPLEXES (SFH/DUP)					
Design Review: SFH/DUP (no public hearing)	$133.00	799106	1650	Admin. Request Fees	
Design Review: SFH/DUP (requiring public hearing)	$391.00	799106	1351 - 1	Mjr. Permit Applic. Fee	Other
Special Development (SDP)/Use Permit (UP): SFH/DUP	$110.00	799106	1352 - 1	Mnr. Permit Applic. Fee	Other
Variance: SFH/DUP	$391.00	799106	1352 - 1	Mnr. Permit Applic. Fee	Other
SIGNS					
Temporary Sign	No Fee				
Permanent Sign (not in Master Sign Program)	$133.00	799106	1650	Admin. Request Fees	
Master Sign Agreement/Program	$715.00	799106	1650	Admin. Request Fees	
Master Sign Agreement/Program - Minor Modification	$324.00	799106	1650	Admin. Request Fees	
STAFF LEVEL PERMIT REVIEWS - NO PUBLIC HEARINGS					
Design Review: Except SFH/DUP (Architecture, Landscaping, Lighting, etc.)	$324.00	799106	1650	Admin. Request Fees	
Extension of Time: Major/Minor Permits and Tentative Maps	$715.00	799106	1650	Admin. Request Fees	
Family Day Care - Large (not within 300 ft. of another)	No Fee				
Miscellaneous Plan Permit (MPP or Unspecified)	$110.00	799106	1650	Admin. Request Fees	
Cleanup deposit (Christmas tree lots and pumpkin patches)	$391.00	799000		Deposits and Passthroughs	
Mobile Vendor Permit	$324.00	799106	1650	Admin. Request Fees	
~~Mobile Vendor Clean-up Deposit~~	~~$196.00~~	~~799000~~		~~Deposits and Passthroughs~~	

3.	**File #:**	**2012-7113**
	Location:	**Citywide**
	Council Study Issue:	Food Truck Location and Operation Requirements: A study to update the City's current regulations for food truck operations. *For more information visit FoodTrucks.inSunnyvale.com*
	Environmental Review:	Categorically Exempt Class 5
	Staff Contact:	Rosemarie Zulueta, (408) 730-7437, rzulueta@ci.sunnyvale.ca.us
	Notes:	*This item is scheduled to be considered by City Council on December 18, 2012.*

Rosemarie Zulueta, Assistant Planner, presented the staff report. She introduced **Christy Gunvalsen**, Neighborhood Preservation manager and said she was present to answer any questions. Ms. Zulueta provided minor edits to the ordinance (Attachment B) on the dais. She said, to date, staff has received 723 responses to the public survey.

Comm. Melton referred to page 7 of the report and discussed with staff that food trucks must use a commissary on a daily basis and that the County checks to make sure this requirement is being met. Comm. Melton discussed with staff other County and City regulations including that business licenses are not required to be displayed, but would need to be provided if requested. Comm. Melton discussed with staff how regulations would be under the new ordinance and that food trucks must comply with all roadway traffic signs.

Comm. Hendricks referred to page 11 of the report and discussed with staff the Murphy Station Heritage Landmark District and the recommendation to prohibit food trucks in this area. Comm. Hendricks suggested possibly including the street names as boundaries in the ordinance. **Trudi Ryan**, Planning Officer, said it may not be necessary as the City owns the property and could choose to not allow food trucks in this area.

Chair Larsson opened the public hearing.

Dan Hugo, a resident of Sunnyvale and member of the newly formed Bay Area Mobile Food Vendors' Association said he had some concerns about this study at first; however he said staff was accessible and alleviated his concerns. He said the Association offers its full support if the ordinance is passed and that they are available to provide feedback and assistance in the future.

Chair Larsson referred to Mr. Hugo's letter in Attachment I and asked Mr. Hugo about obstacles he might see and the request for more flexibility with special events. Mr. Hugo commented that the current recommendation in this final report has facilitated for smaller or medium sized mobile food vendor events so his concern has been addressed. He said some vendors are not sure whether or not to get a permit for special events. Mr. Hugo commented about the commissary requirement and said that the County Health Department does not usually check daily, but they could.

Chair Larsson closed the public hearing.

Vice Chair Dohadwala discussed with staff food trucks along El Camino Real (ECR). Staff said technically ECR is a State Highway, where food trucks are not allowed, though it functions more as a major arterial street. Ms. Zulueta said most of the small number of complaints about food trucks on ECR have been related to business complaints and the Department of Public Safety's (DPS) involvement has been minimal and successful at handling the situation. Ms. Ryan confirmed that staff is not recommending anything in the ordinance specific to ECR. Ms.

Gunvalsen added that as far as vending on ECR has been, if there is a need for DPS that the area of the Sunnyvale Municipal Code that it would pertain to would be the Public Nuisance section. Vice Chair Dohadwala asked what the reason was for prohibiting food trucks in the Murphy Station area. Ms. Zulueta explained that the Murphy Station area has constant pedestrian and vehicle traffic and there are a number of Council Policies specifically related to this area. **Kathryn Berry**, Senior Assistant City Attorney, added that the parking lots behind the Murphy Station area pay into the parking district so it would be unfair to allow food trucks in when they are not paying into the parking district. Ms. Berry said we cannot prohibit food trucks in Sunnyvale, however there is certainly room for a few trucks in other areas of Sunnyvale.

Comm. Melton moved for Alternative 2 and 3 to recommend to City Council to Introduce the proposed ordinance in Attachment B with modifications: to add to the ordinance a requirement for Food Truck operators to display their Sunnyvale Business License at all times; and to prohibit vending within all of Block 2, and not just within the Murphy Station Heritage Landmark District. To adopt the attached resolution (Attachment J, Fee Resolution) rescinding the Mobile Vendor Clean-up Deposit fee. Comm. Hendricks seconded.

Comm. Melton thanked the members of public and staff that participated in this study along the way. He said the health and sanitation issues are covered by the County and for the largest percent possible we would like the food trucks to have the same requirements as brick and mortar establishments. Food truck operators must have a business license with the City. He said, food trucks provide a service, and a good example of where food trucks are helpful is in the Moffett Park area. He said Comm. Kolchak said in a previous meeting that food trucks can activate a neighborhood and he agrees with this.

Comm. Hendricks thanked the public for their input. He said he would be supporting the motion because it brings clarity to the food truck situation.

Comm. Olevson thanked staff and said it is not often he supports adding regulations to businesses; however this reduces staff workload for these legitimate businesses. He said the outreach on this study was outstanding and he wholeheartedly supports the motion.

Vice Chair Dohadwala said she would be supporting the motion. She said the report helps clear up some of the perceptions about food trucks and problems are mitigated by the ordinance.

Chair Larsson said he would be supporting motion, and that he is excited about the new directions food trucks are taking. He said this provides clarity, and helps facilitate food trucks in Sunnyvale. He said food trucks fill gaps, and activate areas.

ACTION: Comm. Melton made a motion on 2012-7113 to recommend to City Council to Introduce the proposed ordinance in Attachment B with modifications: to add to the ordinance a requirement for Food Truck operators to display their Sunnyvale Business License at all times; and to prohibit vending within all of Block 2, and not just within the Murphy Station Heritage Landmark District. To adopt the attached resolution (Attachment J, Fee Resolution) rescinding the Mobile Vendor Clean-up Deposit fee. Comm. Hendricks seconded. Motion carried 5-0, with Comm. Chang and Comm. Kolchak absent.

APPEAL OPTIONS: This recommendation will be provided to City Council and the project is scheduled to be considered at the Council meeting on December 18, 2012.