



**Draft for Planning Commission review
on November 26, 2012**

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.

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 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.

STATE LAW AND CITY AUTHORITY

Public Streets – State law and the current legal landscape surrounding vehicular vending have made it challenging for cities to regulate food trucks on the public street. The California Vehicle Code (CVC) limits local parking regulations except as expressly authorized by state law (Attachment D, State Vehicular Vending Laws). 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 unclear. 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 – The CVC occupies the field concerning regulation of public streets, but cities retain local authority to regulate public sidewalks, and under its police powers, to regulate private property in the interest of protecting public health, safety and welfare. In creating new regulations, restrictions on private property may have to be balancing against the risk of forcing food trucks onto the public street where regulations may be less stringent.

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 (Attachment D) prohibits the sale of any items from vehicles while parked on state highways, and gives local peace officers authority 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). Another appropriate remedy would be to adopt nuisance provisions in the SMC that are specific to vending activity and/or to file civil nuisance abatement actions against vendors which create a public nuisance.

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 (Code excerpts are located in Attachment F, County Health Requirements), which provides 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.

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 food truck vendors must comply with the following:

- Display or provide proof (upon request) of a Sunnyvale Business License, and other applicable permits and licenses from the City and 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
<p><u>NO</u> permit is required if the following are met:</p> <ul style="list-style-type: none"> ▪ 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. 	<p><u>NO</u> permit is required if <u>property owner</u> (or authorized agent) permission is obtained and if the following are met:</p> <ul style="list-style-type: none"> ▪ 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).
<p>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.</p> <p>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.</p>	<p>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).</p> <p>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).</p> <p>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.</p>

Murphy Station Heritage Landmark District

The 100 block of Murphy Ave. is the City's restaurant and entertainment center (Attachment H, Map of Murphy Station Heritage Landmark District). It 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. 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 the Murphy Station Heritage Landmark District.

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 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.

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 during the public hearings.

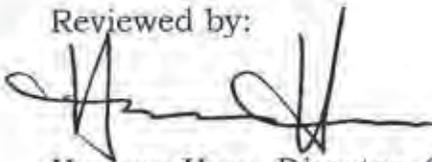
ALTERNATIVES

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:

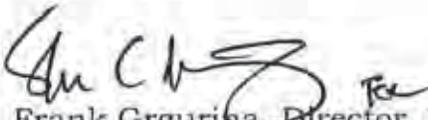


Hanson Hom, Director, Community Development Department

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. Current Regulations
- D. State Vehicular Vending Laws
- E. Current Food Truck Locations
- F. County Health Requirements and Almanac Article
- G. Other Cities' Vending Regulations
- H. Map of Murphy Station Heritage Landmark District
- I. Letters from the Public
- J. Fee Resolution

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 an 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

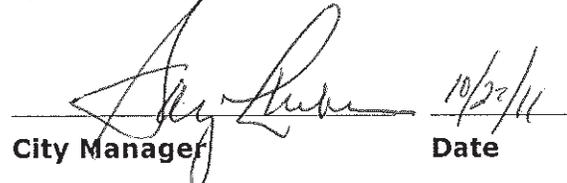


Department Director

10/26/11

Date

Approved by



City Manager

10/27/11

Date

**DRAFT
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 (Mobile Vendors) 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 may make the streets and walkways unsafe for motorists, pedestrians, and vendors;

(5) The Murphy Station Heritage Landmark District is the City's restaurant and entertainment center, which has a high concentration of pedestrian and commercial activity on the public sidewalk; 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:

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

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

(3) "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.

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

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

(6) "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.

(7) "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.

(8) "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.

(9) "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) **Exemptions.** This chapter does not apply to the following:
- (1) **Deliveries.** Any person engaged in delivering previously ordered merchandise or materials from, or to any store, fixed place of business or residence.
 - (2) **Community Events and 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.
 - (3) **Private Events.** Any vendor catering for private events held exclusively on private property with the property owner's written permission and that is not open to the general public.

5.26.040. General Requirements.

All vendors shall comply with the following requirements.

- (a) **Permits and Licenses.** Vendors shall display or keep within their vending facility, or upon their person, proof of all applicable permits and licenses at all times during operation, including:
- (1) Sunnyvale business license;
 - (2) 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;
 - (3) 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;
 - (4) 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
 - (5) Other applicable permits and licenses required under state and federal laws.
- (b) **Location Restrictions.** No person may vend in the following locations:
- (1) The Murphy Station Heritage Landmark District;
 - (2) Any residentially used property;
 - (3) Any unpaved area;
 - (4) 15 feet of any driveway;
 - (5) 15 feet of any fire hydrant or public safety alarm box;
 - (6) 25 feet of any designated fire lane;
 - (7) 50 feet of a pedestrian crosswalk;
 - (8) 50 feet of any intersection;
 - (9) 100 feet of any bus stop sign;
 - (10) Any vision triangle, as defined in Title 19 (Zoning); and
 - (11) Any location where solicitation is prohibited by Chapter 9.56 of this Code.
- (c) **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.
- (d) **Cleanup Responsibility.** Vendors shall:
- (1) **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; and
- (4) **Facility Removal.** Remove the vending facility from the site immediately after operations.
- (e) **Self-Sufficiency.** Vendors shall be entirely self-sufficient in regards to water, gas, electricity, and telecommunications during operations.
- (f) **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.
- (g) **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, 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. **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.
- (b) **Hours of Operation.** Vending within the public right-of-way shall not be conducted before 8 a.m. or after 9 p.m.
- (c) **Sidewalk Clearance and Queuing.** No part of the vehicle 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 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; and

(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. 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.** 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 6 months have elapsed from the date of such revocation.

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 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.** Vending shall only be conducted on property used for nonresidential purposes. Vendors shall occupy parking spaces which are not

needed for the property owner's employees or customers, or other paved areas not required for loading, circulation or fire access;

(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. For example, if one vendor operates from 8 a.m. to 10 a.m., and another vendor operates from 9 a.m. to noon on the same day, then total vending activity on the property has reached four hours and no more vending may occur on the property on that day; and

(4) **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.

(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.

5.26.080. Violation.

(a) **Nuisance.** 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.

5.26.090. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 3. 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:

~~**Section 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 4. 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 events or activities promoting a community, patriotic or other event 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 5. 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. Permit Requirements.

19.61.050. Standards.

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, amusement rides, arts or crafts exhibitions or shows, flea markets, civic events, business promotional events, and religious or cultural festivals.

19.61.030. Applicability.

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

19.61.040. Permit Requirements.

(a) Miscellaneous Permit Required. A miscellaneous permit is required for any temporary unenclosed use on a property which is:

- (1) General Public Interest. Open and advertised to the general public;
- (2) Not Accommodated by Site. Unable to be completely contained on the site and the parking needs of the use cannot be entirely accommodated on the site, as determined by the director of community development;
- (3) Noise. Expected to exceed applicable noise regulations in this title; or
- (4) Vendors. A vendor, as defined under Chapter 5.26 (Vending), that exceeds the operational standards under Section 5.26.070 (Vending on Private Property).

(b) Use Permit. A use permit with public hearing is required for any temporary unenclosed use that is conducted longer or more frequently than the duration allowed by this chapter. The director of community development may require a

use permit for any temporary unenclosed use which may potentially have significant impacts to the surrounding area, such as traffic or noise.

19.61.050. Standards.

Temporary unenclosed uses shall comply with all of the following standards:

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

(1) 30 consecutive days at the same location. Unused hours or days within the 30-day period is not stored or credited; and

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

(b) **Christmas Tree and Pumpkin Sales Duration.** Christmas tree or pumpkin sales lots may be conducted for up to one calendar year from the date of permit issuance;

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

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

(e) **Noise.** Comply with all applicable noise regulations of this title, unless otherwise approved by permit;

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

(g) **Adjacent to Residential.** If the temporary unenclosed use is within 100 feet of any residential property, the hours of operation shall be limited to 7 a.m. to 10 p.m.;

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

(i) **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.

(j) **Signs.** Signs for temporary unenclosed uses are subject to the temporary sign regulations under Chapter 19.44 (Signs). Signs for temporary unenclosed uses approved by miscellaneous plan permit are exempt from the number and duration of display for temporary signs.

19.61.060. Permit Decision and Conditions.

(a) **Decision.** The director may approve a miscellaneous plan permit for a temporary unenclosed use upon finding that the proposed use will:

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

(2) Not unreasonably affect adjacent properties, their owners and occupants, 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 persons residing or working in the area of such use or to the general welfare of the City.

(b) 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 6. 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 7. 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, Temporary unenclosed~~ uses subject to the provisions of Chapter 19.61(Temporary Unenclosed Uses) or appurtenant uses are permitted for:

(1) – (14) [Text unchanged.]

(d) – (k) [Text unchanged.]

SECTION 8. 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 9. 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 10. 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 11. 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 12. 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 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 13. 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 14. 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 15. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 16. 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 FORMAND LEGALITY:

Michael D. Martello, Interim 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.

VEHICLE CODE SECTION 21

(a) Except as otherwise expressly provided, the provisions of this code are applicable and uniform throughout the state and in all counties and municipalities therein, and a local authority shall not enact or enforce any ordinance or resolution on the matters covered by this code, including ordinances or resolutions that establish regulations or procedures for, or assess a fine, penalty, assessment, or fee for a violation of, matters covered by this code, unless expressly authorized by this code.

VEHICLE CODE SECTION 22455

(DIVISION 11, CHAPTER 8: SPECIAL STOPS REQUIRED)

(a) The driver of any commercial vehicle engaged in vending upon a street may vend products on a street in a residence district only after bringing the vehicle to a complete stop and lawfully parking adjacent to the curb, consistent with the requirements of Chapter 9 (commencing with Section 22500) and local ordinances adopted pursuant thereto.

(b) Notwithstanding subdivision (a) of Section 114315 of the Health and Safety Code or any other provision of law, a local authority may, by ordinance or resolution, adopt additional requirements for the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon any street.

HEALTH AND SAFETY CODE SECTION 114315

(DIVISION 104, PART 7: CALIFORNIA RETAIL FOOD CODE, CHAPTER 10: MOBILE FOOD FACILITIES)

(a) A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business for more than a one-hour period.

(b) This section does not limit the authority of a local governing body to adopt, by ordinance or resolution, additional requirements for the public safety, including reasonable time, place, and manner restrictions pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.

STREETS AND HIGHWAYS CODE SECTION 731

**(DIVISION 1, CHAPTER 3: THE CARE AND PROTECTION OF STATE HIGHWAYS, ARTICLE 3:
NUISANCE AND PENAL PROVISIONS)**

Any vehicle or structure parked or placed wholly or partly within any state highway, for the purpose of selling the same or of selling therefrom or therein any article, service or thing, is a public nuisance and the department may immediately remove that vehicle or structure from within any highway.

Any person parking any vehicle or placing any structure wholly or partly within any highway for the purpose of selling that vehicle or structure, or of selling therefrom or therein any article or thing, and any person selling, displaying for sale, or offering for sale any article or thing either in or from that vehicle or structure so parked or placed, and any person storing, servicing, repairing or otherwise working upon any vehicle, other than upon a vehicle which is temporarily disabled, is guilty of a misdemeanor.

The California Highway Patrol and all peace officers from local law enforcement agencies may enforce the provisions of this chapter with respect to highways under their respective jurisdiction and shall cooperate with the department to that end. Whenever any member of the California Highway Patrol or any peace officer from a local law enforcement agency removes a vehicle from a highway under the provisions of this section, then all of the provisions of Article 3 (commencing with Section 22850), Chapter 10, Division 11 of the Vehicle Code with reference to the removal of a vehicle from a highway shall be applicable.

This section does not prohibit a seller from taking orders or delivering any commodity from a vehicle on that part of any state highway immediately adjacent to the premises of the purchaser; prohibit an owner or operator of a vehicle, or a mechanic, from servicing, repairing or otherwise working upon any vehicle which is temporarily disabled in a manner and to an extent that it is impossible to avoid stopping that vehicle within the highway; or prohibit coin-operated public telephones and related telephone structures in park and ride lots, vista points, and truck inspection facilities within state highway rights-of-way for use by the general public.

Excerpts from
**CALIFORNIA HEALTH
AND SAFETY CODE**

Part 7. California Retail Food Code

CA HEALTH AND SAFETY CODE
Applicable Definitions

113734. "Approved" means acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, current public health principles, practices, and generally recognized industry standards that protect public health.

113751. "Commissary" means a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur:

- (a) Food, containers, or supplies are stored.
- (b) Food is prepared or prepackaged for sale or service at other locations.
- (c) Utensils are cleaned.
- (d) Liquid and solid wastes are disposed, or potable water is obtained.

113818. (a) "Limited food preparation" means food preparation that is restricted to one or more of the following:

- (1) Heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of nonprepackaged food.
- (2) Dispensing and portioning of nonpotentially hazardous food.
- (3) Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.
- (4) Slicing and chopping of food on a heated cooking surface during the cooking process.
- (5) Cooking and seasoning to order.
- (6) Preparing beverages that are for immediate service, in response to an individual consumer order, that do not contain frozen milk products.

(b) "Limited food preparation" does not include any of the following:

- (1) Slicing and chopping unless it is on the heated cooking surface.
- (2) Thawing.
- (3) Cooling of cooked, potentially hazardous food.
- (4) Grinding raw ingredients or potentially hazardous food.
- (5) Reheating of potentially hazardous foods for hot holding, except for steamed or boiled hot dogs and tamales in the original, inedible wrapper.
- (6) Hot holding of nonprepackaged, potentially hazardous food, except for roasting corn on the cob, steamed corn on the cob, steamed or boiled hot dogs, and tamales in the original, inedible wrapper.
- (7) Washing of foods.
- (8) Cooking of potentially hazardous foods for later use.

113824. "Menu change" means a modification of a food facility's menu that would require a change in the food facility's food preparation methods, storage equipment, or storage capacity previously approved by the local enforcement agency. These changes may include, but are not limited to, the addition of potentially hazardous foods to a menu, installation of new food preparation or

storage equipment, or increasing storage capacity.

113831. (a) "Mobile food facility" means any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. "Mobile food facility" does not include a transporter" used to transport packaged food from a food facility, or other approved source to the consumer.

(b) "Single operating site mobile food facilities" means at least one, but not more than four, unenclosed mobile food facilities, and their auxiliary units, that operate adjacent to each other at a single location.

113833. "Mobile support unit" means a vehicle used in conjunction with a commissary or other permanent food facility that travels to and services mobile food facilities as needed to replenish supplies, including food and potable water, clean the interior of the unit, or dispose of liquid or solid wastes.

CA HEALTH AND SAFETY CODE

CHAPTER 10: Mobile Food facilities, Sections 114294-114327

114294. (a) All mobile food facilities and mobile support units shall meet the applicable requirements in Chapters 1 to 8, inclusive, and Chapter 13, unless specifically exempted from any of these provisions as provided in this chapter.

(b) The enforcement agency shall initially approve all mobile food facilities and mobile support units as complying with the provisions of this chapter and may require reapproval if deemed necessary.

(c) Each mobile food facility that is either a special purpose commercial modular and coach as defined by Section 18012.5 or a commercial modular coach as defined by Section 18001.8 shall be certified by the Department of Housing and Community Development, consistent with Chapter 4 (commencing with Section 18025) of Part 2 of Division 13, and regulations promulgated pursuant to that chapter. In addition, the enforcement agency shall approve all equipment installation prior to operation.

114295. (a) Except as specified in subdivision (b), all mobile food facilities shall operate in conjunction with a commissary, mobile support unit, or other facility approved by the enforcement agency.

(b) This section does not apply to mobile food facilities that operate at community events as defined in Section 113755 and that remain in a fixed position during food preparation and its hours of operation.

(c) Mobile food facilities shall be stored at or within a commissary or other location approved by the enforcement agency in order to have protection from unsanitary conditions.

(d) Mobile support units shall be operated from and stored at a designated commissary and shall be subject to permitting and plan review.

(e) Notwithstanding any other provisions of this section, a mobile food facility that is engaged in food preparation, other than limited food preparation, as defined in Section 113818, shall not operate in conjunction with a mobile support unit.

114297. (a) Mobile food facilities shall be cleaned and serviced at least once daily during an operating day.

(b) Except as specified in subdivision (c), all mobile food facilities shall report to the commissary or other approved facility on a daily basis.

(c) Mobile food facilities that are serviced by a mobile support unit and that do not report to a commissary on a daily basis shall be stored in a manner that protects the mobile food facility from contamination. All food shall be stored at the commissary or other approved facility at the end of the operating day.

(d) Mobile support units shall report to a commissary or other approved facility for cleaning, servicing, and storage at least daily.

114299. (a) Except as specified in subdivision (c), the business name or name of the operator, city, state, ZIP Code, and name of the permittee, if different from the name of the food facility, shall be legible, clearly visible to consumers, and permanently affixed on the consumer side of the mobile food facility and on a mobile support unit.

(b) The name shall be in letters at least 3 inches high and shall be of a color contrasting with the vehicle exterior. Letters and numbers for the city, state, and ZIP Code shall not be less than one inch high.

(c) Notwithstanding subdivision (a), motorized mobile food facilities and mobile support units shall have the required identification on two sides.

114301. (a) Except to the extent that an alternative construction standard is explicitly prescribed by this section, construction standards for mobile food facilities that are subject to Part 2 (commencing with Section 18000) of Division 13 shall be governed by that part.

(b) Mobile food facility equipment, including, but not limited to, cooking equipment, the interior of cabinet units, and compartments, shall be designed and made of materials that result in smooth, readily accessible, and easily cleanable surfaces.

(1) Unfinished wooden surfaces are prohibited.

(2) Construction joints and seams shall be tightly fitted and sealed so as to be easily cleanable. Silicone sealant or equivalent waterproof compounds shall be acceptable, provided that the gap is smaller than one-quarter inch and applied smooth so as to prevent the entrance of liquid waste or vermin.

(3) Except as specified in Section 114314, nonportable equipment shall be an integral part of the primary unit.

(c) Mobile food facilities that handle potentially hazardous foods, except for prepackaged frozen ready-to-eat foods, whole fish, and whole aquatic invertebrates, shall be equipped with refrigeration units as defined in Section 113885.

(d) All new and replacement gas-fired appliances shall meet applicable ANSI standards. All new and replacement electrical appliances shall meet applicable Underwriters Laboratory standards. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, these appliances shall comply with standards prescribed by Sections 18028, 18029.3, and 18029.5.

(e) Space around pipes, conduits, or hoses that extend through cabinets, floors, or outer walls shall be sealed. The closure shall be smooth and easily cleanable.

(f) Equipment in which spillage is likely to occur shall have a drip tray fitted so that spillage drains into a waste tank.

(g) All equipment shall be installed so as to be easily cleanable, prevent vermin harborage, and provide adequate access for service and maintenance.

(1) Equipment shall be spaced apart or sealed together for easy cleaning. There shall be a minimum of four inches of unobstructed space provided for sanitary maintenance beneath counter mounted equipment or between the sides of adjacent equipment.

(2) Portable equipment or machinery need not comply with the minimum leg height requirement.

(3) Threads, nuts, or rivets shall not be exposed where they interfere with cleaning. Threads, nuts, or rivets that interfere with cleaning shall be sealed or capped.

(4) All floor mounted equipment shall be sealed to the floor to prevent moisture from getting under the equipment, or it shall be raised at least six inches off the floor by means of an easily cleanable leg and foot.

(h) Floors, walls, and ceilings of all enclosed food preparation areas shall be constructed so that the surfaces are impervious, smooth, and easily cleanable. Floor surfaces shall provide employee safety from slipping. The juncture of the floor and wall shall be coved with a 3/8 inch minimum radius coving, with the floor surface extending up the wall at least four inches.

(i) Notwithstanding Section 114143, ground or floor surfaces where cooking processes are conducted from a grill, barbecue, or other unenclosed cooking unit on a mobile food facility shall be impervious, smooth, easily cleanable, and shall provide employee safety from slipping. Ground or floor surfaces in compliance with this section shall extend a minimum of five feet on all open sides of where cooking processes are conducted.

114303. (a) Employee entrance doors to food preparation areas shall be self-closing and kept closed when not in use.

(b) The mobile food facility, and all equipment and utensils shall be protected from potential contamination, and kept clean, in good repair, and free of vermin.

(c) During transportation, storage, and operation of a mobile food facility, food, food-contact surfaces, and utensils shall be protected from contamination.

(d) The permit holder of an unenclosed mobile food facility handling nonprepackaged food shall develop and follow written operational procedures for food handling and the cleaning and sanitizing of food-contact surfaces and utensils. The enforcement agency shall review and approve the procedures prior to implementation and an approved copy shall be kept on the mobile food facility during periods of operation.

114305. (a) During operation, no food intended for retail shall be conveyed, held, stored, displayed, or served from any place other than a mobile food facility, except for the restocking of product in a manner approved by the enforcement agency.

(b) Food preparation counter space shall be provided commensurate with the food operation, adjacent to all cooking equipment.

(c) Except as specified in subdivision (d), food products remaining after each day's operation shall be stored in an approved commissary or other approved facility.

(d) Potentially hazardous foods held at or above 135°F on a mobile food facility or mobile support unit shall be destroyed at the end of the operating day.

114306. (a) A single operating site mobile food facility is restricted to produce, prepackaged food, and limited food preparation.

(b) Notwithstanding Section 113984, a mobile food facility operating within a fully enclosed structure shall not be required to provide a secondary food compartment over food preparation areas.

(c) A single operating site mobile food facility that is required to provide warewashing and handwashing facilities shall provide a warewashing sink and handwashing sink per site or operation. A warewashing and handwashing sink contained in a facility to which this subdivision applies shall be conveniently located so as to be accessible during all hours of operation. Additional handwashing sinks may be required pursuant to paragraph (1) of subdivision (b) of Section 113953.

(d) Notwithstanding Section 114095, a warewashing sink may be shared by not more than four mobile food facilities operating as a single operating site mobile food facility that is required to provide a warewashing sink, if the sink is conveniently located so as to be accessible during all hours of operation.

(e) For purposes of permitting and enforcement, the permit holder of each single operating site mobile food facility location shall be the same.

114307. Mobile food facilities that operate at community events and that remain fixed during food preparation and its hours of operation may:

(a) Include a staffed counter that serves hot and cold beverages and ice that are not potentially hazardous food and that are dispensed from approved bulk dispensing units.

(b) Store supplies and food that are not potentially hazardous in unopened containers adjacent to the mobile food facility or in a nearby temporary storage unit. "Unopened container" means a factory sealed container that has not been previously opened and that is suitably constructed to be resistant to contamination from moisture, dust, insects, and rodents.

(c) Operate an open-air barbecue adjacent to the mobile food facility if approved by the enforcement agency.

114309. (a) Mobile food facilities and mobile support units shall be exempt from the requirements of Sections 114250, 114256.1, and 114279.

(b) Nothing in this chapter shall be deemed to require any person to replace or modify an existing mobile food facility approved for operation prior to adoption of this part, so long as the facility is operated in accordance with the conditions of approval. Plans and specifications may be required by the enforcement agency if it determines that they are necessary to assure compliance with this part.

(c) Mobile food facilities equipped with a one-compartment sink or two-compartment sink that was approved for operation prior to adoption of this part need not provide a three-compartment sink.

114311. Mobile food facilities not under a valid permit as of January 1, 1997, from which nonprepackaged food is sold shall provide handwashing facilities. The handwashing facilities shall be separate from the warewashing sink.

(a) The handwashing sink shall have a minimum dimension of nine inches by nine inches in length and width and five inches in depth and be easily accessible by food employees.

(b) The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least six inches that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

(c) This section shall not apply to mobile food facilities handling only whole produce or the bulk dispensing of nonpotentially hazardous beverages.

114313. (a) Except as specified in subdivisions (b) and (c), a mobile food facility where nonprepackaged food is cooked, blended, or otherwise prepared shall provide a warewashing sink with at least three compartments with two integral metal drainboards.

(1) The dimensions of each compartment shall be large enough to accommodate the cleaning of the largest utensil and either of the following:

(A) At least 12 inches wide, 12 inches long, and 10 inches deep.

(B) At least 10 inches wide, 14 inches long, and 10 inches deep.

(2) Each drainboard shall be at least the size of one of the sink compartments. The drainboards shall be installed with at least one-eighth inch per foot slope toward the sink compartment, and fabricated with a minimum of one-half inch lip or rim to prevent the draining liquid from spilling onto the floor.

(3) The sink shall be equipped with a mixing faucet and shall be provided with a swivel spigot capable of servicing all sink compartments.

(b) If all utensils and equipment of a mobile food facility are washed and sanitized on a daily basis at the approved commissary or other approved food facility, and the mobile food facility provides and maintains an adequate supply of spare preparation and serving utensils in the mobile food facility as needed to replace those that become soiled or contaminated, then the mobile food facility shall not be required to provide a warewashing sink to only handle any of the following:

(1) Nonpotentially hazardous foods that do not require preparation other than heating, baking, popping, portioning, bulk dispensing, assembly, or shaving of ice.

(2) Steamed or boiled hot dogs.

(3) Tamales in the original, inedible wrapper.

(c) An unenclosed mobile food facility that prepares potentially hazardous beverages for immediate service in response to an individual consumer order shall do one of the following:

(1) Provide a three-compartment sink described in subdivision (a).

(2) Provide at least one two-compartment sink that complies with

subdivision (e) of Section 114099.3.

(3) Provide a one-compartment sink with at least one integral metal drainboard, an adequate supply of spare preparation and serving utensils to replace those that become soiled or contaminated, and warewashing facilities that comply with subdivision (a) in reasonable proximity to, and readily accessible for use by, food employees at all times.

114314. (a) Handwashing sinks and warewashing sinks for unenclosed mobile food facilities shall be an integral part of the primary unit or on an approved auxiliary conveyance that is used in conjunction with the mobile food facility.

(b) Warewashing sinks for unenclosed mobile food facilities shall be equipped with overhead protection made of wood, canvas, or other materials that protect the sinks from bird and insect droppings, dust, precipitation, and other contaminants.

114315. (a) A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business for more than a one-hour period.

(b) This section does not limit the authority of a local governing body to adopt, by ordinance or resolution, additional requirements for the public safety, including reasonable time, place, and manner restrictions pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.

114317. The exterior of a mobile food facility and the surrounding area, as relating to the operation of food service, shall be maintained in a sanitary condition.

114319. (a) Spare tires, related automotive equipment, or special tools relating to the mechanical operation of the mobile food facility shall not be stored in the food preparation or food storage areas.

(b) A separate cabinet or drawer shall be installed for the storage of insecticides or other poisonous substances in accordance with Section 114254, if these substances are used. All poisonous chemicals shall be kept in this cabinet or drawer in their original containers and in a manner that offers no contamination hazard to food or utensils.

(c) During periods of inoperation, food and utensils shall be stored in one of the following methods:

(1) Within approved food storage facilities at the commissary or other approved facility.

(2) In food compartments approved by the enforcement agency where the food is protected at all times from contamination, exposure to the elements, ingress of rodents and other vermin, and temperature abuse.

114321. Mobile food facilities that are occupied during normal business operations shall have a clear, unobstructed height over the aisleway portion of the unit of at least 74 inches from floor to ceiling, and a minimum of 30 inches of unobstructed horizontal aisle space. This section shall not apply to vehicles under permit prior to

January 1, 1996.

114322. Compressor units that are not an integral part of food equipment, auxiliary engines, generators, and similar equipment shall be installed in an area that is completely separated from food preparation and food storage and that is accessible from outside the unit for proper cleaning and maintenance.

114323. (a) A first-aid kit shall be provided and located in a convenient area in an enclosed case.

(b) Mobile food facilities that operate at more than one location in a calendar day shall be equipped to meet all of the following requirements:

(1) All utensils in a mobile food facility shall be stored so as to prevent their being thrown about in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes, or slots along counter aisles. Knife holders shall be designed to be easily cleanable and be manufactured of materials approved by the enforcement agency.

(2) Coffee urns, deep fat fryers, steam tables, and similar equipment shall be equipped with positive closing lids that are fitted with a secure latch mechanism that will prevent excessive spillage of hot liquids into the interior of a mobile food facility in the event of a sudden stop, collision, or overturn. As an alternative to this requirement, a coffee urn may be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit.

(3) Metal protective devices shall be installed on the glass liquid level sight gauges on all coffee urns.

(c) Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent, and installed so as to not constitute a hazard to personnel or food.

(d) All liquefied petroleum equipment shall be installed to meet applicable fire authority standards, and this installation shall be approved by the fire authority. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, this equipment and its installation shall comply with standards prescribed by Sections 18028 and 18029.5.

(e) A properly charged and maintained minimum 10 BC-rated fire extinguisher to combat grease fires shall be properly mounted and readily accessible on the interior of any mobile food facility that is equipped with heating elements or cooking equipment.

(f) (1) Except for units subject to Part 2 (commencing with Section 18000) of Division 13, a second means of exit shall be provided in the side opposite the main exit door, or in the roof, or the rear of the unit, with an unobstructed passage of at least 24 inches by 36 inches. The interior latching mechanism shall be operable by hand without special tools or key. The exit shall be labeled "Safety Exit" in contrasting colors with letters at least one inch high.

(2) For units subject to Part 2 (commencing with Section 18000) of Division 13, the size, latching, and labeling of the second means of exit shall comply with standards prescribed by Sections 18028 and 18029.5.

(g) All gas-fired appliances shall be properly insulated in a manner that will prevent excessive heat buildup and injury.

114325. (a) Except on a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous heater capable of heating water to a minimum of 120°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine. On a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous water heater capable of heating water to a minimum of 100 F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine.

(b) (1) Except as specified in paragraph (2), a water heater with a minimum capacity of three gallons shall be provided for mobile food facilities.

(2) A minimum water heater capacity of one-half gallon shall be provided for mobile food facilities approved for limited food preparation.

114326. All commissaries and other approved facilities servicing mobile support units, mobile food facilities, and vending machines shall meet the applicable requirements in this part and any of the following to accommodate all operations necessary to support mobile support units, mobile food facilities, and vending machines:

(a) Adequate facilities shall be provided for the sanitary disposal of liquid waste from the mobile food facility or mobile support unit being serviced.

(b) Adequate facilities shall be provided for the handling and disposal of garbage and refuse originating from a mobile food facility or mobile support unit.

(c) Potable water shall be available for filling the water tanks of each mobile food facility and mobile support unit that requires potable water. Faucets and other potable water sources shall be constructed, located, and maintained so as to minimize the possibility of contaminating the water being loaded.

(d) Hot and cold water, under pressure, shall be available for cleaning mobile food facilities and mobile support units.

(e) Adequate facilities shall be provided for the storage of food, utensils, and other supplies.

(f) Notwithstanding Section 113984, commissaries that service mobile food facilities that conduct limited food preparation shall provide a food preparation area.

(g) Servicing areas at commissaries shall be provided with overhead protection, except that areas used only for the loading of water or the discharge of sewage and other liquid waste through the use of a closed system of hoses need not be provided with overhead protection.

(h) Servicing areas used for cleaning shall be sloped and drained to an approved wastewater system.

(i) Adequate electrical outlets shall be provided for mobile food facilities and mobile support units that require electrical service.

114327. (a) Mobile support units shall be subject to plan review and be approved by the enforcement agency. Requirements shall be based on proposed method of operation and number of mobile food facilities serviced.

(b) Mobile support units shall meet all applicable requirements of this part and the following:

(1) Interior floor, sides, and top shall be free of cracks, seams,

or linings where vermin may harbor, and shall be constructed of a smooth, washable, impervious material capable of withstanding frequent cleaning with approved sanitizing agents.

(2) Be constructed and operated so that no liquid wastes can drain onto any street, sidewalk, or premises.

(3) If used to transport potentially hazardous food, approved equipment to maintain food at the required temperatures shall be provided.

(4) Food, utensils, and supplies shall be protected from contamination.

(5) A separate storage area shall be provided for all poisonous substances, detergents, bleaches, cleaning compounds, and all other injurious or poisonous materials.

(c) Mobile support units shall not be approved for warewashing.

Santa Clara County Department of Environmental Health (SCCDEH) Regulations for Mobile Food Facilities (CA Health and Safety Code, Part 7, Ch. 10)

Page 1 of 2

Definitions

- A "mobile food facility" is any motorized or non-motorized conveyance or portable food service unit upon which prepackaged food or approved unpackaged food is sold or offered for sale at retail. "Mobile Food Facility" does not include a mobile food preparation unit or a stationary mobile food preparation unit. A "commissary" is a state certified location where all food and mobile food units must be stored while the truck is not in operation. If the truck is not approved to prepare food in the truck, food preparation must be done at the commissary. Mobile food facility operators are required to submit a letter to SCCDEH from the commissary agreeing to provide the necessary service.

The SCCDEH requires all mobile food facilities (food trucks and carts) to comply with the following regulations:

1. Mobile food facilities must be operated within 200 feet of a SCCDEH-approved restroom with handwashing facility readily available for employees if stopped to conduct business for more than one hour. Written permission from the owner/operator of a building or other structure within 200 feet for employees to use a SCCDEH-approved restroom with handwashing facility is required during operation.
1. Mobile food facilities must be certified by the Department of Housing and Community Development.
2. Mobile food facilities and mobile support units must meet all applicable requirements of the CA Retail Food Code, including food safety training and certification of employees, food handling and safety requirements, cleaning and sanitizing of equipment, and water and waste disposal requirements.
3. Original Environmental Health Permit must be posted on the mobile food facility at all times.
4. Contact information of the Owner, Operator or Commissary must be shown on both sides of the mobile food facility.
5. Equipment on the mobile food facility must be easy to access and be easy to clean. Unfinished wooden surfaces are not allowed.
6. Food from a mobile food facility must be from a Department-approved commercial source.
7. Food must be stored, displayed or served from the mobile food facility during operation.
8. Food condiments must be protected from contamination and, if available for self-service, must be prepackaged or dispensed from approved devices.
9. Food and food contact surfaces must be protected from contamination at all times.
10. Mobile food facilities must operate out of a Commissary and have to report to the Commissary at least once a day to be cleaned and maintained.
11. Food that remains after each day must be stored in an approved food facility, such as a commissary or permitted restaurant.
12. All waste water must be drained into an approved water receptor.
13. The operator must have a suitable trash can. The operator is responsible for cleanup in the immediate area of the stop.
14. Utensils must be handled and stored to be protected from contamination.
15. Potentially hazardous foods must be kept at or below 41 degrees Fahrenheit or at or above 140 degrees Fahrenheit at all times.
16. All non-motorized food carts must be constructed to meet NSF Standard 59 (Mobile Food Carts). National Sanitation Foundation International is an independent, nonprofit organization that writes standards for the protection of people by ensuring all aspects of food preparation are safe for the public (www.nsf.org).

Santa Clara County Department of Environmental Health (SCCDEH) Regulations for Mobile Food Facilities (CA Health and Safety Code, Part 7, Ch. 10)

Page 2 of 2

Additional Requirements for Mobile Food Facilities Selling Foods Prepared on the Facility:

2. Non-prepackaged food may be sold with approval by the Department.
3. Coffee or cocoa-based drinks that may contain cream, milk, or dairy products may be sold if they are made when ordered and immediately served to the customer.
4. Food that is left at the end of the day must be stored in an approved location.
5. Food, food contact surfaces, and utensils must be protected from contamination at all times.
6. Potentially hazardous food held at or above 140 degrees Fahrenheit must be thrown away at the end of the day.
7. The mobile food facility must be equipped with a visible food compartment that holds all food that is sold.
8. Operators of mobile food facilities must develop and follow written procedures for food handling and the cleaning and sanitizing of food contact surfaces and utensils. The enforcement agency reviews and approves the procedures prior to opening and an approved copy must be posted on the food truck at all times.

Commissaries where mobile food facilities are stored and serviced must meet these requirements:

1. Adequate facilities must be provided for the sanitary disposal of liquid waste.
2. Adequate facilities must be provided for handling and disposal of garbage and refuse.
3. Potable water must be available for filling the water tanks of each mobile food facility and mobile support unit. Faucets and other potable water sources must be designed and maintained to minimize water contamination.
4. Hot and cold water, under pressure, must be available for cleaning.
5. Adequate facilities must be provided for storage of food, utensils, and other supplies.
6. Commissaries that service mobile food facilities that conduct limited food preparation must provide a food prep area.
7. Servicing areas must have overhead protection, unless there is a closed system of hoses.
8. Servicing areas must be sloped and drained to an approved wastewater system.
9. Adequate electrical outlets must be provided.

For more information, visit www.sccgov.org/sites/deh.

California Health and Safety Code Sections 114294 - 114327

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 Kadvanj==

==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."

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](http://www.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

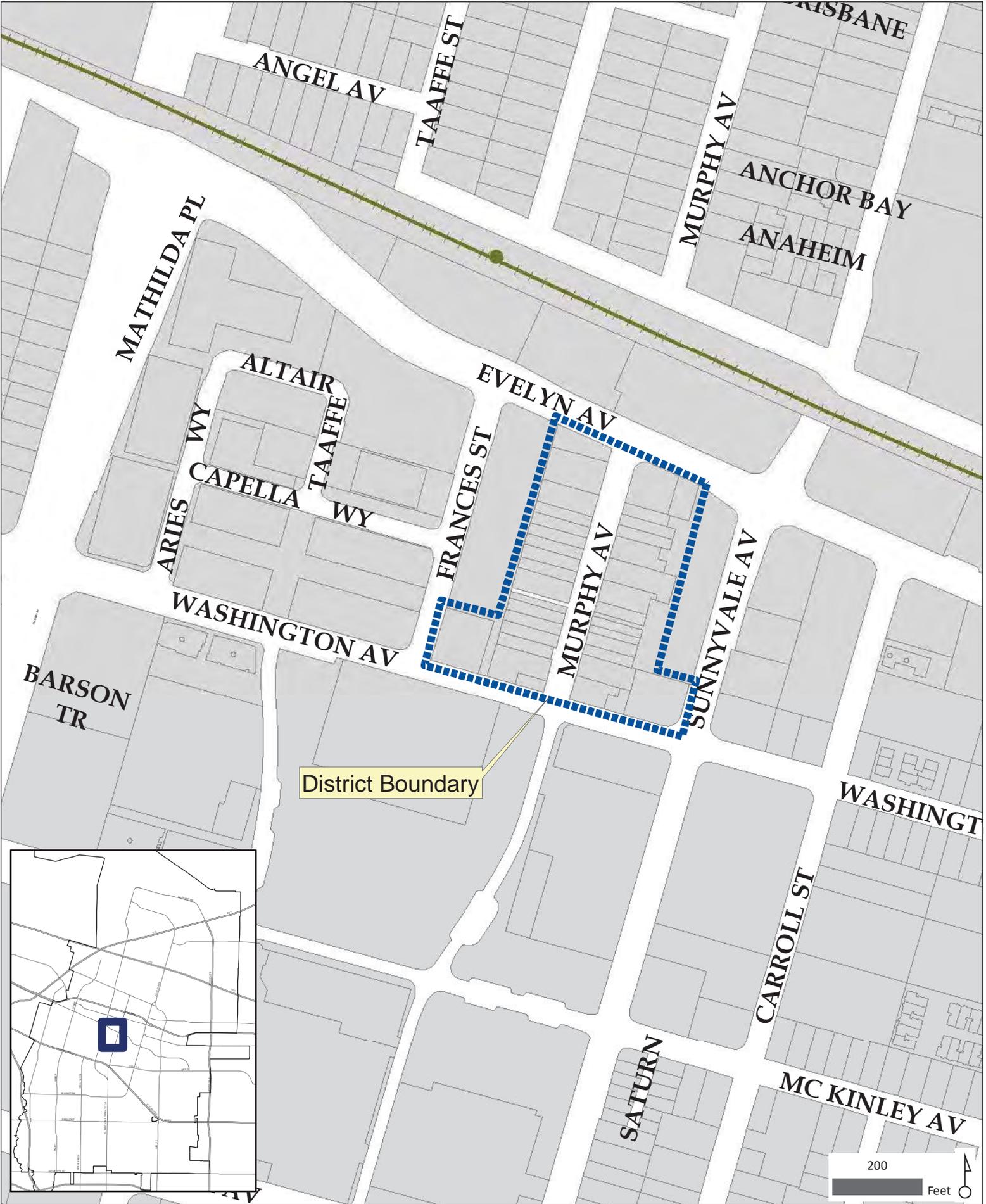
Other Cities' Vending Regulations

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		

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								

Murphy Station Heritage Landmark District



CRM - Answer Point: Planning

Add Request Request Report Help RZulueta

Find Criteria

Req. #

Req. #

Staff

Sort

Find Result

1 match found at 3:23:23 pm.

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

Action

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.



>>> 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 BAMBBA. 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 dough 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
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

Michael D. Martello, Interim City Attorney

**CITY OF SUNNYVALE
FISCAL YEAR 2012/2013
FEE SCHEDULE**

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