

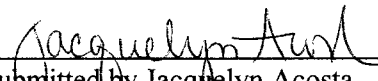


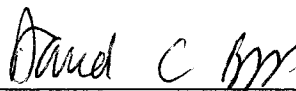
City of Carson

Report to Mayor and City Council

November 7, 2012
New Business Discussion

SUBJECT: CONSIDER ORDINANCE NO. 12-1491 AMENDING THE CARSON MUNICIPAL CODE CHAPTER 1, SECTIONS 4118.1 AND 4118.2 REGARDING PROHIBITED CONDUCT, AMENDING CHAPTER 3, SECTION 63143 REGARDING PEDDLERS, AND ESTABLISHING CHAPTER 3, SECTION 63142 TO REGULATE MOBILE FOOD VENDORS


Submitted by Jacquelyn Acosta
Director of Administrative Services


Approved by David C. Biggs
City Manager

I. SUMMARY

The City Council of the City of Carson is asked to introduce for first reading Ordinance No. 12-1491 which updates the Carson Municipal Code (CMC) relating to regulations of mobile food vendors and establishes regulations for food truck events.

II. RECOMMENDATION

WAIVE further reading and INTRODUCE Ordinance No. 12-1491, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING THE CARSON MUNICIPAL CODE CHAPTER 1, SECTIONS 4118.1 AND 4118.2 REGARDING PROHIBITED CONDUCT, AMENDING CHAPTER 3, SECTION 63143 REGARDING PEDDLERS, AND ESTABLISHING CHAPTER 3, SECTION 63142 TO REGULATE MOBILE FOOD VENDORS."

III. ALTERNATIVES

TAKE another action City Council deems appropriate consistent with the requirements of law.

IV. BACKGROUND

Gourmet food trucks have gained considerable popularity over the past several years throughout Los Angeles County and specifically at the Home Depot Center. Many vendors use social media to advertise their location, which can attract large crowds and create safety issues. Gourmet trucks tend to stay in one location for longer periods of time than traditional catering trucks.

Currently, food trucks fall into two categories:

- (1) individual vehicles that are frequently found on public rights-of-way, often near construction sites and generally stay in one place for about 30 minutes; and

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(2) gourmet food trucks that often appear in groups, draw customers through social media, and visit one or more sites per day for longer durations.

Both types are required to have a city business license and display a County-issued letter grade.

Pursuant to Section 6303.45 of the Carson Municipal Code (CMC), food trucks are treated as “itinerant street vendors” or catering trucks. Section 4118 prohibits the selling or sales of any products within 1,500 feet of any public or private school between 6:30 a.m. and 5:30 p.m. on any day when such school is in session.

Section 4118.1 prohibits food vending within any City park at any time. Section 4118.2 prohibits the sale of ice cream and other products from vehicles in residential districts. Section 6314.3 prohibits selling from trucks or vehicles in any one (1) location for more than thirty (30) minutes during any twenty-four (24) hour period.

Currently, the CMC makes no provision for long term food vending for special events such as food truck gatherings held at the Home Depot Center. Earlier this year, representatives of an association of food truck vendors contacted city staff requesting that Carson review its ordinance regulating food truck vendors to bring the same into compliance with state law.

Staff and the City Attorney’s office had a series of communications with the association’s representative in which the City was provided with examples of recently amended ordinances from other Southern California communities regulating food trucks. Since then, staff and the City Attorney’s office have been researching and reviewing the Carson food truck regulations to determine if updates were warranted, and, if so, how the municipal code should be revised.

California Vehicle Code § 22455 allows municipalities to regulate mobile food vending in order to protect public safety and Article XI, Section 7 of the California Constitution extends to municipalities the police power authority to regulate in furtherance of public health and welfare.

Due to their height and bulk, mobile food trucks and catering trucks create potential safety hazards such as interfering with motorist and pedestrian visibility when parked. They also can create pedestrian congestion on sidewalks, forcing pedestrians into the street due to the lines of customers on sidewalks, resulting in motorists becoming distracted and slowing traffic while looking for parking spaces, and encourage pedestrians to cross mid-block to purchase food. The mobile food trucks and catering trucks also place equipment and/or furniture on public sidewalks which create pedestrian hazards.

As a result of staff review of various updated food truck regulations in other communities, including the cities of West Hollywood, Manhattan Beach and Hawthorne, and having carefully reviewed the Carson Municipal Code, it is

determined that updates to the Carson code are warranted. Modifications to the city's regulations governing mobile food trucks is now warranted, and the attached proposed ordinance is tailored to the regulation of mobile food trucks and food truck events and to advance the city's substantial public interest in protecting public safety.

The ordinance has been reviewed and approved as to legal form by the Office of the City Attorney and staff and the City Attorney recommends that the City Council give favorable consideration to introduction of the same.

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. Ordinance No. 12-1491. (pgs. 4-11)

Document1

Prepared by: Boris Sztorch, Revenue Manager & Jackie Acosta, Director of Admin. Svcs.

TO:Rev09-04-2012

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Public Works
Community Development	Community Services

Action taken by City Council	
Date _____	Action _____

ORDINANCE NO. 12-1491

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING THE CARSON MUNICIPAL CODE CHAPTER 1, SECTIONS 4118.1 AND 4118.2 REGARDING PROHIBITED CONDUCT, AMENDING CHAPTER 3, SECTION 63143 REGARDING PEDDLERS, AND ESTABLISHING CHAPTER 3, SECTION 63142 TO REGULATE MOBILE FOOD VENDORS

WHEREAS, the California Vehicle Code § 22455 allows municipalities to regulate mobile food vending in order to protect public safety and Article XI, Section 7 of the California Constitution extends to municipalities the police power authority to regulate mobile food vending in furtherance of public health and welfare; and

WHEREAS, mobile food vending and catering trucks create the potential for safety hazards, such as but not limited to, encouraging pedestrians to cross mid-block to purchase food; and

WHEREAS, the act of looking for prospective customers while operating a mobile food truck/vending vehicle makes the operator less attentive to pedestrian and vehicular traffic. When done on public roadways, this poses obvious traffic and safety risks to the public which the City seeks to prevent; and

WHEREAS, mobile food vendors who fail to park their vehicles correctly while doing business attract prospective buyers onto public roadways, creating a further traffic and public safety hazard; and

WHEREAS, the City has an important and substantial public interest in providing regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

NOW, THEREFORE, the City Council of the City of Carson, California, does hereby ordain as follows:

Section 1. Carson Municipal Code Chapter 1, Section 4118.1 is hereby amended to read, in its entirety, as follows (changes in *bold italics*):

“4118.1 Peddling from Vehicles in Parks.

No person shall peddle, hawk, sell or vend any food product or service from a vehicle within any City park at any time, *unless it is in conjunction with a City event or City-associated event and that person and/or business has been specifically licensed and permitted by the City to do so.*”

Section 2. Carson Municipal Code Chapter 1, Section 4118.2 is hereby amended to read, in its entirety, as follows (changes in *bold italics*):



“4118.2 Selling Ice Cream and Certain Food Products from Vehicles in Public Streets.

No person shall peddle, hawk, sell, vend or offer for sale ice cream; ice cream bars, cones or rolls: sherbet: sherbet bars, cones or rolls: iced fruit juice (natural or artificial) bars, cones or rolls: the food product commonly known as “cotton candy” or other spun sugar type confections: candy: carbonated drinks: or other similar food substances, products or beverages packaged or otherwise prepared or designed for an individual person’s consumption, from a vehicle stopped or parked on any public street, way or alley within six hundred (600) feet of a residentially developed and occupied property or a park within the City of Carson, ***unless it is in conjunction with a City event or City-associated event and that person and/or business has been specifically licensed and permitted by the City to do so.*** This Section does not prohibit street vending of other products from vehicles in residential districts.”

Section 3. Carson Municipal Code Chapter 3, Section 63143 is hereby amended to read, in its entirety, as follows (changes in ***bold italics***):

“63143 Peddlers.

Every person engaged in the business of peddling, selling or delivering liquids or edibles for human consumption from packs, baskets, ***self-propelled devices or vehicles***, or ***motorized devices or vehicles***, either retail or wholesale, except dairy products and except persons selling or delivering, or both, to retail or wholesale establishments for resale, agricultural products raised by them, shall first procure a permit therefor.

A person engaged in the business of peddling, selling or delivering liquids or edibles for human consumption from packs, baskets, ***self-propelled devices or vehicles***, or ***motorized devices or vehicles***, either retail or wholesale, shall not remain or permit his pack, basket, ***self-propelled device or vehicle***, or ***motorized device or vehicle*** to remain in any one location for the purpose of sale or display of liquids or edibles for more than a total of one hour during any twenty-four (24) hour period.”

Section 4. Carson Municipal Code Chapter 3, Section 63142 is hereby added to read, in its entirety, as follows:

“63142. Mobile Food Vendors.

(a) Authority. Section 63142 is adopted pursuant to the authority granted to the City of Carson by Section 22455 of the California Vehicle Code, which permits local authorities to regulate the type of vending and the time, place and manner of vending from vehicles upon the street in order to promote public safety.

(b) Definitions. For purposes of this Section 63142, the following words or phrases shall have the following meanings:

1. Food or Food Products. Any type of edible substance or beverage.
2. Mobile Food Vendor. A person that operates or assists in the operation of a mobile food truck/vending vehicle.
3. Mobile Food Truck/Vending Vehicle. Any motorized device or vehicle by which any person or property may be propelled or moved upon a highway, or any device which is towed by a motorized device or vehicle, from which food or food products are sold, offered for sale, displayed, bartered, exchanged or otherwise given.
4. Vend or Vending. To sell, offer for sale, display, barter, exchange, or otherwise give food or food products from a mobile food truck/vending vehicle.
5. Vendor. A person who vends, including an employee or agent of a vendor.

(c) Mobile Food Trucks/Vending Vehicles in the Public Right-of-Way. A mobile food vendor may locate its vehicle in the public right-of-way as long as the mobile food vendor adheres to the following standards and conditions:

1. The mobile food truck/vending vehicle is in full compliance with all parking and Vehicle Code provisions which apply to the location at which it is parked.
2. The mobile food truck/vending vehicle does not obstruct pedestrian or vehicular traffic.
3. Vending is prohibited on the exposed street and/or traffic side of the mobile food truck/vending vehicle.
4. A mobile food vendor shall not distribute any item from the mobile food truck/vending vehicle in a manner that causes any person to stand in that portion of the street that is between the vehicle and the center of the street.
5. A mobile food vendor shall not encroach onto a public sidewalk with any part of its vending vehicle or any other equipment or furniture related to the operation of its business.
6. A mobile food vendor shall not keep, maintain or operate any mobile food truck/vending vehicle upon any public street, parkway, alley, or highway within 1,500 feet of the boundaries of any public or private school between the hours of 6:30 a.m. and 5:30 p.m. on any day when such school is in session.



7. A mobile food vendor must have a valid business license and permit from the City.
8. A mobile food vendor must have a valid Public Health Operating Permit, Operators Food Handler's Certificate, Food Vehicle Certificate Sticker, and Seller's Permit.
9. All food products sold or provided from the mobile food truck/vending vehicle shall comply with all applicable food labeling requirements established by the State of California.
10. No mobile food vendor shall engage in vending unless he or she maintains a clearly designated litter receptacle in the immediate vicinity of the mobile food truck/vending vehicle, marked with a sign requesting use by patrons. Prior to leaving the location, the mobile food vendor shall pick up, remove and dispose of all trash generated by the mobile food vendor's operation located within a 25-foot radius of the mobile food vendor's location.
11. A mobile food vendor shall not operate within 25 feet of any street intersection controlled by a crosswalk, traffic light, or stop sign.
12. A mobile food vendor may not operate more than three (3) days per week at the same location.
13. Sales from a mobile food truck/vending vehicle shall occur only within the hours of 7:00 a.m. and 10:00 p.m. of the same day."

(d) Food Truck Events. This section sets forth additional procedures for approval of food truck events, as defined herein. If any provision conflicts or is inconsistent with other code sections, interpretation shall first seek to apply both provisions in the conjunctive, or otherwise seek the more restrictive interpretation.

1. Definition. Food Truck Events. A community event which includes a consortium of mobile food vendors devoted to the sale of prepared food products primarily for consumption in the immediate vicinity for a specified, pre-determined period of time at a specified, pre-determined location. Food truck participation as an accessory to any community event, regardless of the number of participating trucks, shall be considered a "food truck event" and shall be subject to the regulations herein described. A proposed community event shall not be denied solely on the basis of food truck participation; however, the food truck portion of a proposed event may be denied, conditioned or reduced in accordance with the regulations of this section.
2. Findings of Fact. To approve a permit for a food truck event, or other events that include participation of one or more food trucks, the Director of Administrative Services must find the following:

- a. The proposed site is suitable for a food truck event considering its location, the size of the event (number of vendor participants), impact on parking and circulation, and any other factors determined by the Director of Administrative Services, with input from other appropriate City departments. Specifically:
- b. Sufficient restroom facilities shall be located no farther than 500 feet from the food truck event;
- c. The number of participant food trucks shall be limited to one truck per 30 parking spaces on site. Where trucks can be parked and do not block or impede access to striped parking spaces or drive aisles, those trucks shall require 25 parking spaces per truck. Based on circulation, parking, past experience, and other factors, the approved number of participant trucks may be adjusted downward by the Planning Officer.
- d. Any potential significant adverse environmental impact to properties in the vicinity can be mitigated, and the food truck event does not present an unwarranted noise or traffic burden. Mitigation may include: limiting the number of vendors, operating hours, and/or operating days to minimize any significant detrimental impacts to the surrounding neighborhood.
- e. The food truck event will be operated safely and in accordance with all applicable laws and regulations.
- f. The food truck event will not unreasonably burden city resources necessary to protect the security and welfare of the public.
- g. In addition to the requirements for a permit, an application for a food truck event must include the following:
 - 1. Five (5) business days advance notice;
 - 2. An accurate, scaled site plan showing the proposed layout of the food truck event, including the placement of participant vehicles, on-site parking and circulation;
 - 3. The applicant's responses to all required findings of fact;
 - 4. The lease, license, or other agreement between the applicant and the owner and/or business of the subject property;
 - 5. The rules for participant vendors, which demonstrate the applicant's knowledge of applicable laws and regulations and commitment to their enforcement;



6. The written agreement between the applicant and the owner and/or business that will allow the patrons of the food truck event to use nearby restroom facilities;
 7. A statement confirming that the food truck event will be operated safely and in accordance with all applicable laws and regulations; and
 8. A list of participating vendors which includes the business name, owners, address, and phone number.
- h. The holder of the event permit is responsible to ensure that each participating vendor at all permitted events has a valid and current Carson business license and permit.
- i. Applications for a food truck event permit must be accompanied by payment of the appropriate permit fees and are subject to any new or revised conditions that may arise based on the previous permits, if any. Approved permits shall set forth the date and operating hours, conditions of approval, and other operating rules and restrictions.
- j. In addition to the regulations for mobile food vendors in this code, each food truck event shall adhere to the following, regulations for vending from vehicle.”
1. Each operator of a mobile food truck/vending vehicle shall possess and at all times display in conspicuous view upon each such vehicle a city business license issued, pursuant to this section.
 2. No mobile food truck/vending vehicle shall be parked, stopped or left standing in any manner which blocks or impedes vehicular access to any driveway or restricts the free movement of emergency vehicles upon the area of the food truck event.
 3. Each mobile food truck/vending vehicle shall be equipped with trash receptacles of sizes adequate to accommodate all trash and refuse generated by such vending.
 4. Each vendor or the food truck event organizer or applicant shall pick-up and deposit in the trash receptacle any paper, cups, wrappers, litter or other refuse of any kind which were a part of the goods or merchandise supplied from the vehicle and which have been left or abandoned within twenty-five (25) feet of such vehicle on any public or private property. No vendor or operator shall dispose of any trash or refuse in any public or private trash receptacle other than a trash receptacle owned, operated or otherwise provided by and under the control of such vendor.



5. The food truck event organizer or applicant shall make a \$250.00 deposit no later than 48 hours prior to the food truck event to ensure the premises are free of trash and debris after each day's activities. If the site is free of debris, as required, the \$250.00 shall be returned in whole or in part after the event.

6. No vending shall be permitted except after the vehicle has been brought to a complete stop and parked in accordance with the city-approved scaled site plan showing the proposed layout of the food truck event."

(e) Compliance with State and Local Laws.

1. Mobile food vendors shall comply with all applicable state and local laws.
2. This Section 63142 is not intended to be enforced against pedestrian food vendors or against food vendors who operate human-powered push carts and other self-propelled vehicles. Such vendors may be regulated by other sections in this Code of by other state or local laws.

Section 5. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this section, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this section, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 7. This Ordinance shall be in full force and effect thirty (30) days after its second reading and adoption.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this _____ day of _____, 2012.

ATTEST:

Mayor Jim Dear

City Clerk Donesia L. Gause, CMC

APPROVED AS TO FORM:

City Attorney