



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
September 18, 2012

Honorable Members of the
Law and Legislation Committee

Title: Food Vending Vehicle Ordinance Revisions

Location/Council District: Citywide

Recommendation: 1) Discuss and consider changes to the ordinance related to Food Vending Vehicles Chapter 5.68 of the City Code; and 2) Provide direction to the City Manager regarding a private property food vending vehicle pod program.

Contact: Brad Wasson, Revenue Manager 808-5844

Presenters: Brad Wasson, Revenue Manager

Department: Finance Department

Division: Revenue Division

Organization No: 06001211

Description/Analysis

Issue: An emerging trend in mobile food vending has developed over the past few years where vendors are preparing/cooking food in the vehicles. This is a different business model than the City's current food vending vehicle code was created to support. The current code is set up for catering trucks selling previously prepared food at a construction site or an office building and ice-cream trucks selling in residential neighborhoods. The current 30-minute vending restriction is appropriate for these types of vendors. However, the 30-minute restriction does not give the vendors who are preparing/cooking food in the vehicles enough time to both prepare food and serve customers.

The new "cooking" food vendors also have established unique identities and developed a customer base that follows them to locations where they vend. This has created a desire for them to vend longer than 30 minutes and to be able to congregate in an established location.

Without proper regulation, prolonged vending of a nomadic business might create some nuisances. Loitering and trash in the area along with sidewalk and traffic flow concerns have been identified.

Policy Considerations: The Committee may consider the trends associated with “cooking” mobile food vendors and modify city code to reflect the change in service delivery.

Environmental Considerations: The proposed project is exempt from CEQA because it does not have the potential to cause a significant impact on the environment (CEQA Guidelines §15061(b)(3)).

Sustainability Considerations: There are no sustainability considerations applicable to revising the City Code related to the food vending vehicle ordinance.

Committee/Commission Action: None.

Rationale for Recommendation: The attached draft code changes are being presented at the request of Councilmembers Schenirer and R. Fong and were developed by a stakeholder working group including members from traditional brick and mortar restaurants, mobile food vendors, the California Restaurant Association and Councilmembers.

Financial Considerations: Any changes to the mobile food vending code that will increase City staff time involved with implementing and managing this ordinance will require cost recovery for associated expenses. As such, at the time changes are proposed to Council permitting fees must be established and/or modified. Should the Committee forward draft code changes to the City Council, the City Manager will bring forward a resolution to establish or adjust associated fees and enforcement staffing.

Emerging Small Business Development (ESBD): The modifications to the Mobile Food Vending Code will not result in any direct contracts with emerging and small businesses and the City of Sacramento.

Respectfully Submitted by: Brad Wasson
Brad Wasson, Revenue Manager

Approved by: Leyne Milstein
Leyne Milstein, Finance Director

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Attachment 1

Background:

Stakeholder Meetings

Councilmembers Jay Schenirer and Rob Fong conducted three stakeholder meetings in the spring and summer of 2012 to develop a “cooking” mobile food vending plan that could work for the City of Sacramento. The group developed the following components for an ordinance change:

Public Right of Way: Time limitation and distance requirement to be established by zone (see chart below). Mobile Food Vehicle Parking Permits will be established to recover meter fees, program costs, and override posted parking time limits.

←-----Time allowed-----→				
Zone	Description	Distance from restaurant	Right of Way	Private Property
J/K/L streets	River to Hwy 80	1 block	1.5 hrs	5 hrs, vend
				72 hrs, no return
Grid	River to Hwy 80 & Hwy 50 to river	1 block (not to exceed 400')	2.5 hrs	5 hrs, vend
				72 hrs, no return
Rest of City	Commercial zones	200'	2.5 hrs	5 hrs, vend
				72 hrs, no return
	Residential zones	n/a	0.5 hrs	not allowed

Notes:

- Invitation, with restaurant permission, within one block waives distance and vending time requirements.
- Time of day limitations 6:00 am to 11:00 pm.
- Pods permit issuance to establish time limit for each pod location.
- Exclude mobile food vending from Old Sacramento.

Private Property: Time limitation and distance requirement to be established by zone. Vending can occur up to five hours in any one day. However 72 hours must lapse between days vending at a specific property.

Invitation from Businesses or Organizations: Should an entity invite a food truck to vend at its location (right-of-way or private property), written permission must be obtained from all brick and mortar restaurants within one block. Time duration limitations may be waived for special event purposes.

Restaurant Definition: Restaurant means an establishment where food and drink are prepared, served, and consumed primarily within the principal building. A restaurant use may or may not have within its premises a bar for the sale of alcoholic beverages for on-site consumption. The proximity requirement from a restaurant is only in effect when the restaurant is open for business.

Food Truck Pods: Pilot program will include up to five pods of multiple vendors where daily vending could occur on private property. Location will be approved by the City with input from stakeholders. Day-to-day operations of pods will be managed by mobile food vending truck associations.

It should be noted that there is some interest in including surrounding businesses and residents in the approval process. The formal process to accomplish this would be to require a planning entitlement, such as a Special Permit or Development Plan Review with a required hearing.

Associations: In order to participate in pods, mobile vendors must belong to an association. Associations must have a minimum fleet of five vendors. Associations will require compliance of all City codes for their membership. Associations will negotiate and manage pod participation of mobile vendors.

Enforcement: Dedicated enforcement will be allocated to the program and funded by permit fees. To fund 0.5 FTE of a Code Enforcement Officer would add an estimated \$650 to the annual Mobile Food Vehicle permit fee, which is currently \$160.

Evaluation: Stakeholders agree to participate in an evaluation process after six months, twelve months, and then annually with pre-established review criteria. Ongoing evaluation criteria should also be established.

Clarify Block Distance: A city block, not including the sidewalks, is 320 feet by 340 feet (including the 20-foot alley). Rights of way downtown are 80-foot wide. Measurement should begin from the entrance to the restaurant and end at the Mobile Food Vehicle.

E-permit Process: As part of an Entertainment Permit process, the E-Permit may approve incidental food truck vending for a specific event or location on private property.

Trailers at Pods: Do not allow mobile food vending trailers at pods at this time.

Vending at City Parks: (Miller Park is only one identified at this time)

- Monday – Friday dawn to dusk
- Exact location and number of trucks to be determined
- Operators responsible for clean-up and trash removal in the immediate area
- Trucks must park in parking lot and not impede normal traffic flow
- May not park on grass or pathways
- MFV Association will be assessed for all damages or extra trash clean up
- Trucks found operating without a permit or not in designated area will be subject to citation
- No tables or chairs
- No amplified sound

- City can cancel dates with two-weeks advance notice to accommodate special events

Grandfather Existing Private Property Vendors: When this code was updated in 2008, an exemption was created for mobile food vendors that had established operations on private property. This exemption will sunset on January 1, 2013. There are now only four vendors still operating under this exemption and these particular vendors have not created a problem for the City of Sacramento. Consequently it is recommended that they be allowed to continue to operate while we modify and evaluate the code for additional “cooking” vehicle vendors.

Restroom Requirement: Any mobile food vending that takes place in one location for longer than one hour must have restroom access within 200 feet for employees. This access must be documented on the County of Sacramento’s Verification of Restroom for Mobile Food Facility form and a copy kept with the vehicle.

Pedestrian Flow: The Mobile Food Vendor is responsible for keeping the pedestrian flow clear on the sidewalk in the immediate area of the vehicle.

Night time Vending: The Police Department was asked to weigh in, separately from the stakeholder meetings, on how late vending should occur. The City has had serious problems with crowds dispersing late at night near bars and night clubs. Mobile food vending outside will add to loitering and make it more difficult to disperse the crowds. Consequently, the Police Department is recommending that all mobile food vending end at 11:00 p.m.

The Draft Ordinance

The draft ordinance is the first phase in implementing the plan developed at the stakeholder meetings. Phase two, which is still in development, is to include the private property pods. The draft ordinance in this report would implement the changes in regard to the operation of food vending vehicles on the public right-of-way. In general, the ordinance would do the following:

- Establish the JKL and Grid vending districts.
- Define the term “restaurant.” Terminology that corresponds with State and County regulations was used to maintain consistency and enforceability.
- Require vendors to provide the City with a copy of the County of Sacramento’s approval of toilet and hand washing facilities prior to vending for more than a one-hour period in one location.
- Expand the hours of operation on the public right-of-way to 6:00 a.m. to 11:00 p.m.

- Restrict vending on the public right-of-way outside of the special vending districts to a maximum of 2.5 hours and only at locations more than 200 feet from any restaurant, unless permission is granted by every restaurant within 200 feet.
- Restrict vending on the public right-of-way in the JKL vending district to a maximum of 90 minutes and only at locations more than 400 feet from any restaurant, unless permission is granted by every restaurant within 400 feet.
- Restrict vending on the public right-of-way in the Grid vending district to a maximum 2.5 hours and only at locations more than 400 feet from any restaurant, unless permission is granted by every restaurant within 400 feet.
- Prohibit vending on the public right-of-way in Old Sacramento.
- Extend the sunset clause for the exemption for established operations on private property to January 1, 2018.

Ordinances regarding food truck pods and vending at City parks will be brought to the Law and Legislation Committee at a later date.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 5.68.010, 5.68.170, AND 5.68.250 OF THE SACRAMENTO CITY CODE AND ADDING SECTIONS 5.68.165, 5.68.172, 5.68.174, 5.68.176, AND 5.68.178 TO THE SACRAMENTO CITY CODE, RELATING TO FOOD VENDING VEHICLES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 5.68.010 of the Sacramento City Code is amended to read as follows:

5.68.010 Definitions.

The following words and phrases when used in this chapter shall have the following meanings:

“Commercial and hospital zoning districts” means OB, EC, SC, C-1, C-2, C-3, and H zoning districts as established pursuant to Title 17 of this code.

“Director” means the city’s director of finance, or his or her designee.

“Food vending vehicle” includes any motor vehicle from which any type of food or beverage is sold or offered for sale directly to any consumer; provided, however, that “food vending vehicle” shall not include a vehicle that only delivers food or beverage products ordered by home delivery customers.

“Grid vending district” means the area within and including the following borders but excluding the JKL vending district and Old Sacramento: American River to the north, 29th Street to the east, W Street to the south, and the Sacramento River to the west.

“Heavy commercial and industrial zoning districts” means C-4, M-1, M-1S, M-2, M-2, MRD, and MIP zoning districts as established pursuant to Title 17 of this code.

“JKL vending district” means the area within and including the following borders but excluding Old Sacramento: I Street to the north, 29th Street to the east, L Street to the south, and the Sacramento River to the west.

“Old Sacramento” means the area designated in Section 1.12.030.

“Operate a food vending vehicle” means to drive, occupy, or otherwise use a food vending vehicle, to sell, offer to sell, or display for sale, any type of food or beverage.

“Residential or open space zoning districts” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, RMX, RO, AOS, F, and ARP-F zoning districts as established pursuant to Title 17 of this code.

“Restaurant” means a permanent food facility, as defined in Section 113849 of the California Health and Safety Code, that sells food for human consumption to the general public.

“Street” means a street, alley, way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.

“Vendor” means any person who operates a food vending vehicle.

SECTION 2.

Section 5.68.165 is added to the Sacramento City Code to read as follows:

5.68.165 Toilet and handwashing facilities.

5. No person shall operate a food vending vehicle while stopped for more than a one-hour period in any location, or within 400 feet of that location, unless prior to stopping, the food vending vehicle permittee has provided the director with a copy of the County of Sacramento’s approval of readily available toilet and handwashing facilities within 200 feet travel distance of that location, issued in accordance with Section 114315 of the California Health and Safety Code.
 - B. A copy of the approval shall be maintained with the corresponding food vending vehicle at all times.
 - C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present a copy of the approval that is in effect for that vehicle.

SECTION 3.

Section 5.68.170 of the Sacramento City Code is amended to read as follows:

5.68.170 Operation on the ~~public right-of-way street~~—Generally.

5. It is unlawful for any person to operate a food vending vehicle in the City while stopped, standing or parked on the ~~public right-of-way street~~:

~~A1.~~ Between the hours of ~~eight 11:00~~ p.m. of ~~one any~~ day and ~~five 6:00~~ a.m. of the following day ~~during the months of April, May, June, July, August, September and October~~;

~~B.~~ ~~Between the hours of six p.m. of one day and five a.m. of the following day during the months of November, December, January, February and March.~~

~~C.~~ ~~For more than thirty (30) minutes in one location, without moving to a new location at least four hundred (400) feet away;~~

~~D2.~~ Within ~~four hundred (400)~~ feet of a location where the same food vending vehicle previously operated, on the same calendar day;

~~E3.~~ Within ~~four hundred (400)~~ feet of any other food vending vehicle; or

~~F4.~~ Within ~~one hundred (100) 50~~ feet of any street intersection controlled by a traffic light or stop sign.

~~B.~~ For purposes of this Section, distance shall be determined by measuring along the surface of the street.

SECTION 4.

Section 5.68.172 is added to the Sacramento City Code to read as follows:

5.68.172 Operation on the street—no vending district.

5. It is unlawful for any person to operate a food vending vehicle on the street:

5. Within 200 feet of any restaurant that is open for business; or

2. In one location, or within 400 feet of that location, for more than two and one-half (2.5) hours.

B. This section shall not apply to any person that has obtained prior written permission to operate a food vending vehicle contrary to the provisions of this section from the owner of every restaurant within 200 feet.

C. For purposes of this Section, distance shall be determined by measuring along the surface of the street.

D. This section shall not apply to the operation of a food vending vehicle on the street in the JKL or Grid vending districts or in Old Sacramento.

SECTION 5.

Section 5.68.174 is added to the Sacramento City Code to read as follows:

5.68.174 Operation on the street—JKL vending district.

5. It is unlawful for any person to operate a food vending vehicle on the street in the JKL vending district:
5. Within 340 feet of any restaurant that is open for business; or
2. In one location, or within 400 feet of that location, for more than 90 minutes.

B. This section shall not apply to any person that has obtained prior written permission to operate a food vending vehicle contrary to the provisions of this section from the owner of every restaurant within 340 feet.

C. For purposes of this Section, distance shall be determined by measuring along the surface of the street.

SECTION 6.

Section 5.68.176 is added to the Sacramento City Code to read as follows:

5.68.176 Operation on the street—grid vending district.

5. It is unlawful for any person to operate a food vending vehicle on the street in the grid vending district:
5. Within 340 feet of any restaurant; or
2. In one location, or within 400 feet of that location, for more than two and one-half (2.5) hours.

B. This section shall not apply to any person that has obtained prior written permission to operate a food vending vehicle contrary to the provisions of this section from the owner of every restaurant within 340 feet.

C. For purposes of this Section, distance shall be determined by measuring along the surface of the street.

SECTION 7.

Section 5.68.178 is added to the Sacramento City Code to read as follows:

5.68.178 Operation on the street—Old Sacramento.

It is unlawful for any person to operate a food vending vehicle on the street in Old Sacramento.

SECTION 8.

Section 5.68.250 of the Sacramento City Code is amended to read as follows:

5.68.250 Exemption of established operations on private property.

5. The operation of a food vending vehicle on private property shall be exempt from Sections 5.68.210, 5.68.220 and Chapter 17.88 of this code until January 1, ~~2013~~ 2018, if the food vending vehicle permittee has an established operation on private property.

B. A food vending vehicle permittee shall be deemed to have an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee's food vending vehicle has operated on a private property with the continuous consent of the property owner since at least January 1, 2006.

C. The exemption in the above subsection A is subject to the following conditions:

5. The exemption applies only to the specific private property that the director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection B of this section;
2. The exemption applies only as long as the consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;
3. The exemption applies only as long as the food vending vehicle permit to which it is related, is continuously maintained as valid. If the food vending vehicle permit is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a food vending vehicle driver permit is subsequently obtained;
4. A person may only operate a food vending vehicle in accordance with this exemption between the hours of five a.m. of one day, and two a.m. of the following day; and
5. Except as set forth in subsection A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 5.68.010, 5.68.170, AND 5.68.250 OF THE SACRAMENTO CITY CODE AND ADDING SECTIONS 5.68.165, 5.68.172, 5.68.174, 5.68.176, AND 5.68.178 TO THE SACRAMENTO CITY CODE, RELATING TO FOOD VENDING VEHICLES

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“Director” means the city’s director of finance, or his or her designee.

“Food vending vehicle” includes any motor vehicle from which any type of food or beverage is sold or offered for sale directly to any consumer; provided, however, that “food vending vehicle” shall not include a vehicle that only delivers food or beverage products ordered by home delivery customers.

“Grid vending district” means the area within and including the following borders but excluding the JKL vending district and Old Sacramento: American River to the north, 29th Street to the east, W Street to the south, and the Sacramento River to the west.

“Heavy commercial and industrial zoning districts” means C-4, M-1, M-1S, M-2, M-2, MRD, and MIP zoning districts as established pursuant to Title 17 of this code.

“JKL vending district” means the area within and including the following borders but excluding Old Sacramento: I Street to the north, 29th Street to the east, L Street to the south, and the Sacramento River to the west.

“Old Sacramento” means the area designated in Section 1.12.030.

“Operate a food vending vehicle” means to drive, occupy, or otherwise use a food vending vehicle, to sell, offer to sell, or display for sale, any type of food or beverage.

“Residential or open space zoning districts” means RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, RMX, RO, AOS, F, and ARP-F zoning districts as established pursuant to Title 17 of this code.

“Restaurant” means a permanent food facility, as defined in Section 113849 of the California Health and Safety Code, that sells food for human consumption to the general public.

“Street” means a street, alley, way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.

“Vendor” means any person who operates a food vending vehicle.

SECTION 2.

Section 5.68.165 is added to the Sacramento City Code to read as follows:

5.68.165 Toilet and handwashing facilities.

A. No person shall operate a food vending vehicle while stopped for more than a one-hour period in any location, or within 400 feet of that location, unless prior to stopping, the food vending vehicle permittee has provided the director with a copy of the County of Sacramento’s approval of readily available toilet and handwashing facilities within 200 feet travel distance of that location, issued in accordance with Section 114315 of the California Health and Safety Code.

B. A copy of the approval shall be maintained with the corresponding food vending vehicle at all times.

C. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person operating a food vending vehicle shall present a copy of the approval that is in effect for that vehicle.

SECTION 3.

Section 5.68.170 of the Sacramento City Code is amended to read as follows:

5.68.170 Operation on the street—Generally.

A. It is unlawful for any person to operate a food vending vehicle in the City while stopped, standing or parked on the street:

1. Between the hours of 11:00 p.m. of any day and 6:00 a.m. of the following day;
2. Within 400 feet of a location where the same food vending vehicle previously operated, on the same calendar day;
3. Within 400 feet of any other food vending vehicle; or
4. Within 50 feet of any street intersection controlled by a traffic light or stop sign.

B. For purposes of this Section, distance shall be determined by measuring along the surface of the street.

SECTION 4.

Section 5.68.172 is added to the Sacramento City Code to read as follows:

5.68.172 Operation on the street—no vending district.

A. It is unlawful for any person to operate a food vending vehicle on the street:

1. Within 200 feet of any restaurant that is open for business; or
2. In one location, or within 400 feet of that location, for more than two and one-half (2.5) hours.

B. This section shall not apply to any person that has obtained prior written permission to operate a food vending vehicle contrary to the provisions of this section from the owner of every restaurant within 200 feet.

C. For purposes of this Section, distance shall be determined by measuring along the surface of the street.

D. This section shall not apply to the operation of a food vending vehicle on the street in the JKL or Grid vending districts or in Old Sacramento.

SECTION 5.

Section 5.68.174 is added to the Sacramento City Code to read as follows:

5.68.174 Operation on the street—JKL vending district.

A. It is unlawful for any person to operate a food vending vehicle on the street in the JKL vending district:

1. Within 340 feet of any restaurant that is open for business; or
2. In one location, or within 400 feet of that location, for more than 90 minutes.

B. This section shall not apply to any person that has obtained prior written permission to operate a food vending vehicle contrary to the provisions of this section from the owner of every restaurant within 340 feet.

C. For purposes of this Section, distance shall be determined by measuring along the surface of the street.

SECTION 6.

Section 5.68.176 is added to the Sacramento City Code to read as follows:

5.68.176 Operation on the street—grid vending district.

A. It is unlawful for any person to operate a food vending vehicle on the street in the grid vending district:

1. Within 340 feet of any restaurant; or
2. In one location, or within 400 feet of that location, for more than two and one-half (2.5) hours.

B. This section shall not apply to any person that has obtained prior written permission to operate a food vending vehicle contrary to the provisions of this section from the owner of every restaurant within 340 feet.

C. For purposes of this Section, distance shall be determined by measuring along the surface of the street.

SECTION 7.

Section 5.68.178 is added to the Sacramento City Code to read as follows:

5.68.178 Operation on the street—Old Sacramento.

It is unlawful for any person to operate a food vending vehicle on the street in Old Sacramento.

SECTION 8.

Section 5.68.250 of the Sacramento City Code is amended to read as follows:

5.68.250 Exemption of established operations on private property.

A. The operation of a food vending vehicle on private property shall be exempt from Sections 5.68.210, 5.68.220 and Chapter 17.88 of this code until January 1, 2018, if the food vending vehicle permittee has an established operation on private property.

B. A food vending vehicle permittee shall be deemed to have an established operation on private property if, based on credible evidence submitted by the permittee prior to March 31, 2008, the director finds that the permittee's food vending vehicle has operated on a private property with the continuous consent of the property owner since at least January 1, 2006.

C. The exemption in the above subsection A is subject to the following conditions:

1. The exemption applies only to the specific private property that the director determines is the location on which the food vending vehicle permittee has an established operation on private property, pursuant to subsection B of this section;

2. The exemption applies only as long as the consent is continuously maintained. If consent is revoked or is allowed to expire at any time, this exemption shall no longer apply or be available even if consent is subsequently obtained;

3. The exemption applies only as long as the food vending vehicle permit to which it is related, is continuously maintained as valid. If the food vending vehicle permit is revoked or is not renewed at any time, this exemption shall no longer apply or be available even if a food vending vehicle driver permit is subsequently obtained;

4. A person may only operate a food vending vehicle in accordance with this exemption between the hours of five a.m. of one day, and two a.m. of the following day; and

5. Except as set forth in subsection A of this section, the operation of the food vending vehicle shall comply with all other provisions of this code.