



Memorandum

TO: RULES COMMITTEE
FROM: Councilmember Xavier Campos
Councilmember Ash Kalra
Councilmember Sam Liccardo
Councilmember Donald Rocha
SUBJECT: SEE BELOW
DATE: February 2, 2012

APPROVED: *Don Rocha* *Sam Liccardo* *Ash Kalra*

DATE:

SUBJECT: UPDATE REGULATION ON MOBILE AND OUTDOOR VENDING ORDINANCES

RECOMMENDATION

1. Direct Staff to place both the Mobile and Outdoor vending ordinances on the City Council/Senior Staff Budget Priority Setting Session to be added to staff's significant ordinances and referrals Work plan.
2. Direct staff to work on updating the Mobile and Outdoor vending ordinance once approved as one of the Budget Priorities. The Ordinance should:
 - a. Update must include zoning requirements and explore implementing new regulations for the proposed Green Cart Vendors program as submitted by the Health Trust.
 - b. Identify restricted and unrestricted areas for the sale of food from outdoor mobile food trucks.
3. Request a suspension on the existing regulations of the Mobile Food Carts size requirements to all currently or previously registered and licensed Vendors in the City until a new ordinance is in place that is in compliance with all city regulations. The suspension is only for the cart size, Vendors must comply with all other City requirements.

OUTCOME

Directing staff to develop the above ordinances would result in regulations that encourage and support mobile food vendors to do business for their livelihood and for the economic growth of the city. Placing both the Mobile and Outdoor vending ordinances on the City Council/Senior Staff Budget Priority Setting Session will result in a more supportive experience for those seeking to operate as approved location peddlers/vendors in San José.

BACKGROUND

After meeting with numerous Mobile Food Vendors, representatives from the County of Santa Clara Health Department, San José Police Department, San José City Code Enforcement, Santa Clara County Supervisor George Shirakawa, it has come to a conclusion that the requirements being imposed on some Mobile Street and Outdoor Vendors are not in sync with County and City regulations. Currently the cart size required by the City of San José is 5 feet wide, 6 feet long and 4 feet high, these requirements were adopted in 1996, but in 1997, the Santa Clara County Health Department adopted new regulations that require carts to have extra equipment such as: a refrigerator and an area to wash hands that is to be connected to the cart. These new equipment requirements by the County's Health Department take away space needed for the actual cooking and storing of food merchandise, forcing the seller be out of compliance with our City ordinance by having an oversized cart. Currently the city has denied a total of 56 permits and 20 renewal permits because of size requirements. A number of vendors have made an investment of over \$10,000 dollars by purchasing a cart, and some have invested up to \$20,000 dollars in order to be in compliance with the county ordinances. Should the cart size ordinance suspension go forward, this will allow the city's staff time to implement a proper cart size ordinance that is in accordance to zoning regulation.

We also have concerns about the impact of mobile food carts and trucks on the sales of brick-and-mortar restaurants near where mobile food carts set up. Owners of many established taquerias, noodle houses, and other local restaurants complain that mobile food carts that sell the same types of food often strategically park themselves near these restaurants during periods of peak demand, thereby siphoning customers and business. Often times this creates a competitive disadvantage that brick-and mortar restaurants face due to the fact that they must also pay rent, pay property and utility taxes, and abide by county regulations. Often the poorly regulated mobile food carts can offer similar food at a lower price without having to pay for additional fees like the way restaurants do. In addition, mobile food carts that abide by permitting, safety, and health regulations should not be placed at a competitive disadvantage by other mobile food vendors who are poorly regulated. We seek to rectify that by asking the City's Planning Department to designate special "mobile food cart" zones in the city where trucks can operate freely and enforcement can be conducted more effectively.

CONCLUSION

By approving the memo, Street Vendors will be authorized to continue vending until the new ordinance is in place and Council can take corrective action to our City Vending policy. This will eliminate the confusion originated by the City and County's conflicting requirements. It will reduce the drainage of City staff resources and will help address the overwhelming number of noncompliant vendors. This action will not exempt street vendors from complying with current zoning ordinances.