



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

THROUGH: David N. Carmany, City Manager

FROM: Roxanne Diaz, City Attorney
Richard Thompson, Director of Community Development
Eric Haaland, Associate Planner

DATE: February 21, 2012

SUBJECT: Adoption of Ordinance No. 2157 Amending the Manhattan Beach Municipal Code and Adding a New Chapter 3.68 Regarding Mobile Food Vendors on the Public Right-of-Way

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 2157, an Ordinance of the City of Manhattan Beach Establishing Regulations for the Operation of Food Trucks on Public Streets

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The City Council, at its regular meeting of February 7, 2012, introduced a proposed Municipal Code Amendment pertaining to regulations for food trucks on public streets. The City Council conducted a public hearing, beginning on January 17th, that resulted in revisions from the original ordinance drafted by the City Attorney. The final revisions, approved by the City Council at its February 7th meeting, have been incorporated into the attached Ordinance No. 2157.

Ordinance No. 2157 would become effective 30 days after its adoption. Ordinance No. 2156, pertaining to food truck regulation on private property was adopted by the City Council at its February 7th meeting as a separate agenda item, since that ordinance had been introduced earlier.

Attachments:

A. Ordinance No. 2157

C: Food Truck Association
Downtown Business Association
Chamber of Commerce

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ORDINANCE NO. 2157

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MANHATTAN BEACH, CALIFORNIA, ADDING A NEW CHAPTER
REGARDING MOBILE FOOD VENDORS AND FURTHER AMENDING
THE MANHATTAN BEACH MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. The Manhattan Beach City Council hereby finds as follows:

A. The California Vehicle Code Section 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 regulate in furtherance of public health and welfare.

B. The City is extremely dense with a land area of just 3.93 square miles and a population of approximately thirty-four thousand people. Moreover, the combination of an oceanside location, fine climate, and the availability of urban facilities, services and entertainment make the City an extremely desirable place to work or visit. Consequently, a large number of nonresidents come into the City to work or recreate each day, which further contributes to population density and vehicular and pedestrian congestion.

C. 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.

D. The act of looking for prospective buyers while operating a mobile food 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.

E. Mobile food vendors who fail to park their vehicles correctly during a transaction attract prospective buyers onto public roadways, creating a further traffic and public safety hazard.

F. 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.

Section 2. A new Chapter 3.68 is hereby added to Title 3 of the Manhattan Beach Municipal Code to read as follows:

“Chapter 3.68. Mobile Food Vendors.

3.68.010. Authority. Chapter 3.68 is adopted pursuant to the authority granted to the City of Manhattan Beach 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.

3.68.020. Definitions. For purposes of this Chapter, the following words or phrases shall have the following meanings:

- A. Food or Food Products. Any type of edible substance or beverage.
- B. Mobile Food Vendor. A person that operates or assists in the operation of a vending vehicle.
- C. Vend or Vending. To sell, offer for sale, display, barter, exchange, or otherwise give food or food products from a vending vehicle.
- D. Vendor. A person who vends, including an employee or agent of a vendor.
- E. Vending Vehicle. Any self-propelled, motorized device or vehicle by which any person or property may be propelled or moved upon a highway, excepting a device moved exclusively by human power, or which may be drawn or towed by a self-propelled, motorized vehicle, from which food or food products are sold, offered for sale, displayed, bartered, exchanged or otherwise given.

3.68.030. Mobile Food Vendors In The 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:

- A. The vending vehicle is in full compliance with all parking and Vehicle Code provisions which apply to the location at which it is parked.
- B. The vending vehicle does not obstruct pedestrian or vehicular traffic.
- C. Vending is prohibited on the exposed street and/or traffic side of the vending vehicle.
- D. The mobile food vendor shall not distribute any item from the 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.
- E. The 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.
- F. The mobile food vendor shall not keep, maintain or operate any vending vehicle upon any public street within 300 feet of the nearest property line of any property on which a school building is located between the hours of seven a.m. (7:00 a.m.) and five p.m. (5:00 p.m.) of any school day. This prohibition will not apply if the school principal gives the mobile food vendor written permission to park on school property. The mobile food vendor shall provide a copy of that authorization to the City within five days of its receipt.
- G. The mobile food vendor has a valid business license from the City.

H. The mobile food vendor has a valid permit, certificate of other required approval from the Los Angeles County Department of Health.

I. All food products sold or provided from the vending vehicle shall comply with all applicable food labeling requirements established by the State of California and the mobile food vendor must obtain all required permits, including without limitation, health permits, to sell or provide such items.

J. No mobile food vendor shall engage in vending unless he or she maintains a clearly designated litter receptacle in the immediate vicinity of the 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.

K. The vending vehicle shall not operate within 25 feet of any street intersection controlled by a crosswalk, traffic light, or stop sign.

3.68.040. Compliance with State and Local Laws.

A. Mobile food vendors shall comply with all applicable state and local laws.

B. This Chapter is not intended to be enforced against pedestrian food vendors or against food vendors who operate human powered push carts and other non self-propelled vehicles. Such vendors may be regulated by other Chapters in this Code of by other state or local laws.

Section 3. Section 14.36.130 of the Manhattan Beach Municipal Code is hereby amended in its entirety to read as follows:

"14.36.130 - Unlawful parking—Peddlers, vendors.

A. Except as otherwise provided in this section no person shall stand or park any wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or food stuffs are sold, displayed, solicited or offered for sale or bartered or exchanged on any portion of any street, including parkways and sidewalks, within this City except that such wagons or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten (10) minutes at any one place.

B. No person shall park or stand on any street, including parkways and sidewalks, any wagon or pushcart from which tamales, peanuts, popcorn, candy, ice cream or other articles of food are sold or offered for sale without first obtaining a written permit to do so from the Chief of Police, which shall designate the specific location in which such cart shall stand.

C. Whenever any permit is granted under the provisions of this section and a particular location to park or stand is specified therein, no person shall park or stand any vehicle, wagon, or pushcart on any location other than as designated in such permit. In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section, such permit shall be forthwith revoked by the Chief of Police upon the filing of the record of

such conviction with such officer and no permit shall thereafter be issued to such person until six (6) months have elapsed from the date of such revocation.

D. The fee for any permit issued under this section shall be established by Council under separate resolution."

Section 4. The City Council hereby finds that it can be seen with certainty that there is no possibility 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 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, 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 Chapter, 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 6. The City Clerk shall cause this ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code, shall certify to the adoption of this ordinance.

Section 7. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

PASSED, APPROVED AND ADOPTED this ____ of _____, 2012.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Nicholas W. Tell, Jr.
City of Manhattan Beach, California

ATTEST:

Liza Tamura, City Clerk

APPROVED AS TO FORM:



Roxanne M. Diaz, City Attorney