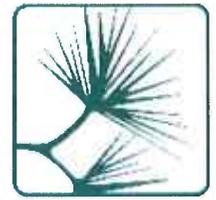




City of Del Mar Staff Report



TO: Honorable Mayor and City Council Members

FROM: Kathleen A. Garcia, Planning and Community Development Director 
Via Scott W. Huth, City Manager 
Prepared by Matt Bator, AICP, Senior Planner 

DATE: January 14, 2013

SUBJECT: An Interim Urgency Ordinance establishing a temporary moratorium on the approval of permits for mobile food trucks and discussion of potential mobile vending regulations.

REQUESTED ACTION/RECOMMENDATION:

That the City Council: 1) Adopt the attached Urgency Ordinance (Attachment A) that would prohibit the issuance of additional City business licenses for a temporary period of time while the City continues to study potential regulation of food trucks and mobile vending in general; and 2) provide additional direction to staff, based on information provided within this report, regarding the potential preparation of an ordinance to create a new Del Mar Municipal Code (DMMC) Chapter to address the subject of mobile vending services, including the operation of food vending trucks.

EXECUTIVE SUMMARY:

On November 19, 2012, the Del Mar City Council adopted Interim Urgency Ordinance No. 873, a copy of which is included in Attachment B. The Interim Urgency Ordinance affected the approval and issuance of business licenses for the operation of food vending trucks within Del Mar's city limits. At the meeting, Council members directed staff to further study the regulations that could be included in an ordinance that would address all forms of outdoor commercial vending within the City.

By law, an interim Urgency Ordinance is only effective for 45 days, unless extended by the City Council at a noticed public hearing. Due to the Council's limited meeting schedule during the holidays, staff was unable to return with an ordinance extension for City Council consideration prior to the expiration of the emergency ordinance on January 4, 2013. Therefore, staff is now returning to the City Council with a new Interim Urgency Ordinance request. As before, the ordinance would temporarily prohibit the

City Council Action:

issuance of new business licenses for mobile food trucks, but would not prohibit existing license holders from conducting business.

In addition to a request for an extension of the Interim Urgency Ordinance, staff is also seeking Council input and direction on whether: 1) a new ordinance should be prepared; 2) staff should address the City's concerns for public safety related to mobile food trucks through the modification of existing commercial zoning regulations; and 3) continue regulating mobile food truck operations as allowed "temporary" uses on commercial properties, pursuant to existing parking and signage regulations (status quo). Staff discusses the potential options later in this report.

DISCUSSION/ANALYSIS:

As its name implies, an Urgency Ordinance is a law that is passed by the City Council to respond to an issue that the Council has determined requires immediate attention. Under State law, a city may adopt an Interim Urgency Ordinance, while it studies a zoning issue and determines a course of action, potentially including adoption of a permanent ordinance. An interim urgency ordinance becomes effective at the time of its adoption.

The Urgency Ordinance does not require that food truck owners/operators who currently hold valid business licenses to cease operations within the City. However, it does temporarily prohibit the approval and issuance of new business licenses for currently unlicensed mobile food trucks. As stated in the draft ordinance (Attachment A), the holders of currently valid business licenses would be able to renew their licenses for the 2013 calendar year.

The Council adopted the previous urgency ordinance in response to the lack of provisions within the City's Municipal Code to regulate the potential public health and safety concerns associated with food truck operations. The City Council determined that it is necessary to adopt a temporary moratorium on the approval of licenses for mobile food trucks in order to provide sufficient time for staff to study potential regulations related to mobile food trucks and mobile vending in general. Because staff was unable to return to the City Council to request an extension of the initial 45-day moratorium, staff is now requesting that the Council adopt a new urgency ordinance which would create another 45-day moratorium. If Council directs staff to draft a comprehensive ordinance, staff will likely return to Council with a request to extend the moratorium while staff prepares the draft ordinance and takes it through the required Planning Commission and City Council review processes.

Potential Regulation of Mobile Vending

At its November 19, 2012 meeting, City Council directed staff to analyze comprehensive mobile vending policies. In its analysis staff suggests that any potential regulations could pertain to the following types of mobile commercial operations:

- 1) Mobile Food Trucks operating on commercially zoned private property, such as multiple food truck events;
- 2) Mobile Food Trucks operating within the public right-of-way or on public property under the provisions of "Operations Permit";
- 3) Mobile Food Trucks operating on private residential property for catering purposes;
- 4) Ice Cream trucks operating within the public right-of-way. This would currently require an "Operations Permit." There are no known permits that have been issued for this use in the past;
- 5) Push Carts and temporary vending stands, such as mobile kiosks that could be placed on commercially zoned private property. Examples include coffee carts, ice cream carts, etc.;
- 6) Lunch Trucks operating on or near construction sites. These trucks typically sell prepackaged foods and do not prepare food on-site;
- 7) Retail sales and service trucks operating within the public right-of-way or commercially zoned private property. Examples of this type of mobile operations would include retail fashion trucks, which are becoming popular for lunchtime shopping in downtown business and office centers, or services like mobile barber or knife sharpening trucks;
- 8) Mobile grocery trucks (not grocery store delivery);
- 9) Video game party trucks that park on residential streets and cater to youth birthday parties; and
- 10) Farmers Markets and other weekly bazaars or market sales.

Any such ordinance would provide standards to ensure that public safety and convenience are provided in terms of:

- Compliance with State/County Health Regulations
- Hours of operation/noise
- Density of use/trucks allowed at events
- Parking requirements
- Restroom availability
- Refuse collection and recycling
- Lighting
- Signage
- Traffic and pedestrian safety within the public right-of-way
- Residential street and neighborhood impacts
- Standards and conditions to be included with the review and approval of "Operations Permits" for commercial use of the public right-of-way.

Additional issues that could be addressed in a comprehensive ordinance might include: potential vehicle safety inspections, collection of impact fees, driver's license and background checks, general and automobile liability insurance standards, etc.

Due to the broad scope of this comprehensive type of ordinance, which would regulate all types of outdoor vending, additional research and study will be required by staff. As this research and study is performed, additional direction from the City Council may be needed, as well as review and recommendations to the City Council from the Planning Commission. Staff estimates that the processes on completing and adopting the ordinance would take approximately 4-6 months with initial Planning Commission review in March or April.

As an alternative to a comprehensive mobile vending ordinance, the City Council may prefer that staff concentrate efforts on just the regulation of mobile food trucks. This use-specific ordinance would address the public safety issues listed above, but only for the subject of Mobile Food Truck operations.

Staff recommends that the City Council provide staff with direction pertaining to the type of ordinance, if any, that staff should pursue and any additional information, regulations or standards that Council would like to be included in such an ordinance.

FISCAL IMPACT:

This report does not create any direct fiscal impacts to the City. However, further study of the issue and development of regulations and permitting processes would result in additional City costs for the staff time involved.

ENVIRONMENTAL IMPACT:

Adoption of this Ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) of the CEQA Guidelines.

ATTACHMENTS:

- Attachment A - Draft Interim Urgency Ordinance
- Attachment B - Interim Urgency Ordinance No. 873

ATTACHMENT A

For City Council Report Dated January 14, 2013

ORDINANCE NO. ____

AN INTERIM URGENCY ORDINANCE OF THE CITY OF DEL MAR,
CALIFORNIA ESTABLISHING A TEMPORARY MORATORIUM ON THE
APPROVAL OF PERMITS FOR MOBILE FOOD TRUCKS AND
ADOPTING FINDINGS OF URGENCY

WHEREAS, Mobile Food Trucks are defined by the City as motorized vehicles or vehicle-towed trailers in which food is cooked and/or prepared to order and served to walk up customers; and

WHEREAS, the City of Del Mar has minimal regulations related to the operation of Mobile Food Trucks within the City; and

WHEREAS, the City Council recognizes that due to current economic conditions, individuals and entities desire to sell and market their products and services in a cost – effective manner; and

WHEREAS, the City Council recognizes that Mobile Food Trucks can contribute to the City’s local economy and to the City’s revitalization efforts within its commercial district; and

WHEREAS, the City Council also recognizes that Mobile Food Trucks may pose negative impacts such as, litter, increased risk of accidents, noise and invasion of personal privacy; and

WHEREAS, State law regulates mobile facilities, including Mobile Food Trucks, within the State but allows local government to adopt by resolution or ordinance local time, place and manner restrictions in order to protect the public’s safety; and

WHEREAS, the City Council finds that it is in the best interests of the public’s health, safety and welfare to establish regulations governing the operation of Mobile Food Trucks within the City of Del Mar; and

WHEREAS, the City Council has determined that it is necessary to adopt a temporary moratorium on the approval of licenses for Mobile Food Trucks in order to provide sufficient time for staff to analyze, prepare and present to the City Council proposed regulations related to Mobile Food Trucks; and

WHEREAS, the City Council finds and declares that the temporary moratorium established by this Temporary Moratorium is being imposed for the minimum time necessary for staff to complete its analysis and provide its recommendation.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Del Mar as follows:

SECTION 1. FINDING.

- A. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this Ordinance.
- B. The City Council finds there is a current and immediate threat to the public health, safety or welfare.
- C. The City Council finds that the approval of business permits for additional Mobile Food Trucks would result in a threat to public health, safety, or welfare.
- D. The adoption of an interim urgency ordinance is exempt from the California Environmental Quality Act, based upon Section 15061(b)(3), where it can be seen with certainty that there is not possibility that the activity in question may have a significant effect on the environment.

SECTION 2. APPLICABILITY. Notwithstanding any provision of the Del Mar Municipal Code, this ordinance shall apply to all new business licenses applications submitted to the City after the effective date of this Ordinance for the operation of Mobile Food Trucks within the City.

SECTION 3. TEMPORARY MORATORIUM. The following Temporary Moratorium shall be adopted as an Urgency Ordinance pursuant to California Government Code section 65858:

Within the boundary of the City, there shall be a Temporary Moratorium in effect, commencing on the effective date of this Ordinance, prohibiting any approval or issuance of a business license for the operation of a mobile food vendor.

SECTION 4. PLANNING STUDIES. City staff shall promptly begin the studies they deem necessary and appropriate to make a recommendation to the City Council regarding any regulations governing the approval of and regulation of the operation of Mobile Food Trucks within the City. City staff shall prepare and submit for City Council adoption, at least ten (10) days prior to the expiration of this ordinance, or any extension thereof, a written report describing the measures taken to alleviate the conditions which led to the adoption of this ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption if adopted by at least a four-fifths (4/5) vote of the City Council. This Interim Moratorium shall remain in effect for forty-five (45) days unless extended in accordance with California Government Code section 65858 or permanent regulations are adopted to address the public safety issues related to Mobile Food Trucks.

SECTION 6. CEQA. The City Council finds and determines for the reasons stated in the recitals, that adoption of this Ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) of the CEQA Guidelines.

SECTION 7. CERTIFICATION. The City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within fifteen (15) days after adoption in a newspaper of general circulation, printed and published in Del Mar, California.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the _____ day of _____ 2013.

Terry Sinnott, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, MERCEDES MARTIN, City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. _____, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the _____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mercedes Martin, City Clerk
City of Del Mar

ATTACHMENT B

For City Council Report Dated January 14, 2013

ORDINANCE NO.873

AN INTERIM URGENCY ORDINANCE OF THE CITY OF DEL MAR,
CALIFORNIA ESTABLISHING A TEMPORARY MORATORIUM ON THE
APPROVAL OF PERMITS FOR MOBILE FOOD TRUCKS AND
ADOPTING FINDINGS OF URGENCY

WHEREAS, Mobile Food Trucks are defined by the City as motorized vehicles or vehicle-towed trailers in which food is cooked and/or prepared to order and served to walk up customers; and

WHEREAS, the City of Del Mar has minimal regulations related to the operation of Mobile Food Trucks within the City; and

WHEREAS, the City Council recognizes that due to current economic conditions, individuals and entities desire to sell and market their products and services in a cost – effective manner; and

WHEREAS, the City Council recognizes that Mobile Food Trucks can contribute to the City's local economy and to the City's revitalization efforts within its commercial district; and

WHEREAS, the City Council also recognizes that Mobile Food Trucks may pose negative impacts such as, litter, increased risk of accidents, noise and invasion of personal privacy; and

WHEREAS, State law regulates mobile facilities, including Mobile Food Trucks, within the State but allows local government to adopt by resolution or ordinance local time, place and manner restrictions in order to protect the public's safety; and

WHEREAS, the City Council finds that it is in the best interests of the public's health, safety and welfare to establish regulations governing the operation of Mobile Food Trucks within the City of Del Mar; and

WHEREAS, the City Council has determined that it is necessary to adopt a temporary moratorium on the approval of licenses for Mobile Food Trucks in order to provide sufficient time for staff to analyze, prepare and present to the City Council proposed regulations related to Mobile Food Trucks; and

WHEREAS, the City Council finds and declares that the temporary moratorium established by this Temporary Moratorium is being imposed for the minimum time necessary for staff to complete its analysis and provide its recommendation.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Del Mar as follows:

SECTION 1. FINDING.

- A. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this Ordinance.
- B. The City Council finds there is a current and immediate threat to the public health, safety or welfare.
- C. The City Council finds that the approval of business permits for additional Mobile Food Trucks would result in a threat to public health, safety, or welfare.
- D. The adoption of an interim urgency ordinance is exempt from the California Environmental Quality Act, based upon Section 15061(b)(3), where it can be seen with certainty that there is not possibility that the activity in question may have a significant effect on the environment.

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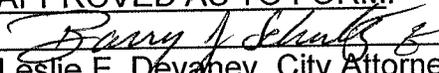
SECTION 7. CERTIFICATION. The City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within fifteen (15) days after adoption in a newspaper of general circulation, printed and published in Del Mar, California.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 19th day of November 2012.



Carl Hilliard, Mayor
City of Del Mar

APPROVED AS TO FORM:



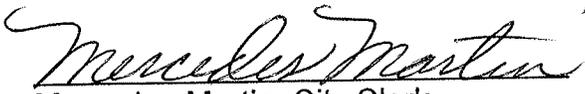
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, MERCEDES MARTIN, City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 873, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 19th day of November, 2012, by the following vote:

AYES: Mayor Hilliard, Deputy Mayor Sinnott, Council Members Filanc and Mosier
NOES: None
ABSENT: Council Member Haydu
ABSTAIN: None



Mercedes Martin, City Clerk
City of Del Mar