



Staff Report

Agenda Item No. D-2

To: City of Imperial Planning Commission
From: Lisa Tylanda, Planner
Date: November 20, 2018
Subject: Workshop: Proposed Textual Amendments to create Zoning Ordinance for Mobile Food Facilities.

Applicant:	City of Imperial's Community Development Department
Recommendation:	None. Draft Workshop for Proposed Mobile Food Facility Ordinance.

Discussion/Analysis:

The Zoning Code is written such that, only those uses listed are allowed to be located within the specific zones. Currently, "Mobile Food Facilities or Mobile Vendors" are not listed or allowed to operate as a permitted uses in any of the zones established within the City of Imperial. The creation of this proposed ordinance was per direction of the City of Imperial's Planning Commission in an attempt to bring about regulations for this growing industry, in order to accommodate current and future businesses within the City of Imperial while upholding the City's Mission and Vision.

Environmental Compliance:

The proposed draft ordinance is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that staff finds and determines that there is nothing in this Article or its implementation that could foreseeably have any significant effect on the environment

Staff Recommendation:

Staff recommends this item to the Planning Commission for review in the form of a draft workshop.

Attachments:

Draft Mobile Food Facilities Ordinance Amendment.

ORDINANCE NO. XXXXX

§##### Prohibitions and Regulations Applicable to the Sale or Distribution of Merchandise or Services from Vehicles.

(a) Purpose and Intent. The City Council hereby finds and declares that the undistracted sale or distribution or the offering for sale or distribution of merchandise or services from vehicles within or upon public streets, sidewalks and rights of way, public property or in the vicinity of school buildings, under certain circumstances, constitutes a danger to public safety because of the likelihood of injury to pedestrians thereby exposed to hazards from other vehicular traffic in the vicinity.

The City Council further finds that the unauthorized use of public property for private commercial activity constitutes a misuse of public property and tax money and that similar activity on private property when not in conformity with health, safety, zoning and land use regulations contrary to the public welfare.

(b) **Definitions.** Mobile food trucks are motorized vehicles that function as transportable retail food and beverage facilities. This use category includes mobile food trucks that provide sales to the general public of food and beverage (pre-packaged or prepared and served from the vehicle or an attached trailer) for consumption on or off of the premises. This use category does not include pushcarts or off-site food and beverage delivery services.

(c) Prohibitions. No merchandise or services shall be sold or distributed or offered for sale or distribution from a vehicle on a street or highway unless the vehicle is first lawfully parked or stopped and then remains for no longer a period of time than is necessary to complete the immediate sale. An operator is considered to be engaged in an "immediate sale" when there are patrons waiting in line for service. Operators of such vehicles shall maintain a minimum clear space of (10) feet both in front of and behind the vehicle to allow for pedestrian safety and safe sight distance for approaching motorists. No sales or distribution shall be made when the designated minimum clear space of ten (10) feet does not exist.

(d) No merchandise or services shall be sold or distributed or offered for sale or distribution, whether from a vehicle or otherwise, upon public property without the authorization of the public entity.

(e) No merchandise or services shall be sold or distributed or offered for sale or distribution from a vehicle on private property without the express consent of the owner or lessee of the property and except in conformity with health, safety, zoning and land use regulations or permits pertaining to the site from which the sale or distribution is conducted.

(f) Food services to be sold or distributed or offered for sale or distribution from a vehicle will be allowed to operate seven (7) days a week between the hours of 6:00 a.m. and 11:00p.m. only within the designated zones outlined in this ordinance (except in residential zones) established by the City of Imperial and contingent upon obtaining the required permits to operate food trucks mobile vendors.

- (g) Construction with other laws. Nothing in this section shall be deemed to excuse compliance with any laws or regulation pertaining to health, zoning, public safety or land use under applicable state law or the municipal code, including the issuance of any permits thereunder.

§XXXXXXX Purpose of Mobile Food Facility Permit

The purpose of these procedures is to regulate mobile food facilities in a manner that protects the public health, safety, and welfare, while also accommodating mobile food truck activity that promotes an active and social pedestrian environment within appropriate areas of the City.

§XXXXXXX When a Mobile Food Facility Permit Is Required.

- (a) A mobile food facility permit is required for any and all mobile food operations on private property and locations designated by the City of Imperial except where specifically exempted by **Section XXXXXX**.
- (b) A property owner shall obtain a mobile food facility permit for all mobile food truck operations on their premises.

§XXXXXXX Zoning and General Regulations.

- (a) In the zones indicated with a “C”, “VC”, “I” and “R” mobile food trucks/vendors are permitted as a limited use and are subject to requirements outlined in **Ordinance XXX**.
- (b) Mobile food facility operators shall comply with all of the following:
 - (1) Maintenance of a valid business certificate from the City of Imperial to operate within the City;
 - (2) Maintenance of a valid County of Imperial Health Department permit and operation in conformance with all applicable health standards;
 - (3) Posting, in public view and without obstruction, on both the front right windshield and the back left bumper of the mobile food truck, the following items: the County of Imperial Health permit certification stickers; and a notice with at least 3-inch font providing “To report a violation, call City of Imperial Code Enforcement at 760-355-1152”;
 - (4) Selling only food and beverage items regulated under the California Retail Food Code (California Health and Safety Code Division 104, Part 7, Section 113700 et. seq., as it currently exists or may be amended);
 - (5) No verbal solicitation of business from pedestrians or persons in vehicles, and no sale to persons in vehicles;
 - (6) No amplified sound or loudspeakers, and compliance with the noise limits outlined in the City of Imperials Noise Element;

- (7) No lighting, except localized lighting that is used on or in the mobile food trucks for the purpose of inside food preparation and menu illumination;
- (8) No signs other than those exhibited on or in the mobile food truck;
- (9) No selling or serving alcohol;
- (10) Provision of one trash receptacle and one recycling receptacle for use by patrons and in a convenient location that does not impede pedestrian or vehicular traffic;
- (11) Collection and removal of all litter or debris generated within a minimum 25-foot radius of the food truck;
- (12) Containment of all associated equipment and operations within the mobile food facility , except for the trash and recycling receptacles required by **Section XXXXX ()()**;
- (13) No furniture, umbrellas, generators, objects or structures outside of the vehicle;
- (14) Where located within 300 feet of a dwelling unit, operation only between 6 a.m. and 10 p.m. Sunday through Thursday and between 6 a.m. and 11p.m. Friday and Saturday;
- (15) No obstruction or interference with the free flow of pedestrian or vehicular traffic, including but not limited to access to or from any business, public building, or dwelling unit; and
- (16) No restriction of visibility area sight distance at any driveway or intersection.

(c) Mobile food facility in the Public Right-of-Way.

Mobile food operators shall comply with all of the following:

- (1) Maintenance of liability **insurance policy of at least \$1,000,000** that names the City as an additional insured;
- (2) The mobile food facility shall be legally parked.
- (3) Mobile food facility shall not operate in the public right-of-way within 500 feet from any kindergarten-twelfth grade school, between 7:00 a.m. and 6:00 p.m. on regular school days;**
- (4) Mobile food facility shall comply with the following distance requirements: vehicles shall not be parked within 35 feet from a street intersection with a crosswalk, traffic light, or stop sign, or within 35 feet from a bus stop;
- (5) Mobile food facility shall not occupy more than two on-street parking spaces in the public right-of-way in commercial zones;
- (6) Mobile food facility operators shall organize customer queuing in a manner that does not interfere with or obstruct the free passage of pedestrians;
- (7) Mobile food facility operators shall limit food and beverage service to that side of the mobile food facility facing away from the street;
- (8) Mobile food facility shall not encroach onto a public sidewalk with any part of the vehicle or any other equipment or furniture related to the operation of the business, except for

- required trash and recycling receptacles or any attached sign or awning. The operator shall provide an 8-foot vertical clearance for pedestrian access under any sign or awning;
- (9) Mobile food facility operators shall control smoke and odors caused by food preparation to avoid a public nuisance;
- (10) A mobile food facility shall not operate in the public right-of-way within 500 feet of a permitted Special Event on public property while such event is in progress unless the mobile food facility has either (i) written authorization from the Event Organizer or (ii) a Special Event Permit.

(d) Mobile Food facility on Private Property.

Property owners and permit holders shall comply with all of the following:

- (1) Obtain an approved mobile food facility permit in accordance with Section XXX.
- (2) Ensure that a mobile food facility operator operates only at the location designated on the permit; ensure that a mobile food facility operator displays a copy of the approved mobile food facility permit in a prominent and visible place within each mobile food facility , together with a letter of permission from the permit holder consenting to mobile food truck operations on the site in accordance with the approved permit;
- (3) mobile food facility operations shall not occupy more than 25 percent of the area of the premises; and mobile food facility shall operate as follows:
 - (i) within a paved, level parking area, where it can be demonstrated that any off-street parking spaces located in that area are not otherwise reserved, encumbered, or designated to satisfy the off-street parking requirement of a business or activity that is operating at the same time as the mobile food facility;
 - (ii) one mobile food facility may operate on the site for every 525 square foot paved area of at least 35 feet by 15 feet in dimension. Mobile food facilities greater than 27 feet in length require a space at least 70 feet by 15 feet; and
 - (iii) operations shall not impede pedestrian or vehicular ingress or egress through the remainder of the parking area or adjacent public right-of-way.

(e) Neighborhood Use Permit.

A Neighborhood Use Permit may be requested in accordance with Section XXXXX on private property.

(f) Exemptions from Mobile Food facility Permits.

The following types of mobile food truck/vendor operations are exempt from the requirement to obtain a mobile food truck permit:

- (1) operations on the property of a school, university, hospital, or religious facility with the written consent of the property owner or authorized school official;
- (2) California State Laws that supersede City ordinances.
- (3) private catering events that comply with the following requirements:
 - (i) the mobile food facility is parked entirely on private property;
 - (ii) service is limited to private guests of the catering host; and

- (iv) payment occurs directly between the catering event host and the mobile food facility operator. No payment transactions shall occur for individual orders; and
- (v) event may be subject to obtaining a “Special Events” permit.

§XXXXXX Approval and Issuance of a Mobile Food Facility Permit.

- (a) The Director of the Community Development Department, or his or her designee, shall approve and issue a mobile food facility permit if:
 - i. The required permit fees have been paid;
 - ii. No notices of violation, as the term is defined in **section XXXX** are pending on the property.
- (b) A permit is effective upon approval by the Director of Community Development Department, or his or her designee.
- (c) A permit allows mobile food facility operations to occur on the premises, and requires permit holders to ensure compliance with the regulations in **section XXXX** of this ordinance.

§XXXXXX Suspension or Revocation of a Mobile Food Facility Permit.

- (a) If the Director of the Community Development Department, or his or her designee, determines that there has been a violation of the permit of the mobile food facility regulations, he or she may provide the permit holder with a notice of intent to revoke the permit.
- (b) The notice of intent to revoke shall describe the violation, require the permit holder to immediately correct the violation or cause the violation to be corrected, and shall be provided to the permit holder by personal service, mail, or posting.
- (c) If the permit holder fails to immediately correct the violation or cause the violation to be corrected the Director of Community Development shall schedule a hearing to revoke or modify the permit in accordance before the City of Imperial’s Planning Commission.

§XXXXXX Expiration of a Mobile Food Facility Permit.

Each mobile food facility permit shall expire one year from the date of issuance.