



City Council Staff Report

Date: March 19, 2014

LEGISLATIVE

Subject: ADOPTION OF AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROHIBITING VENDING FROM MOBILE FOOD VEHICLES IN THE CITY, SUBJECT TO CERTAIN EXCEPTIONS, FOR A PERIOD OF SIX MONTHS. (4/5THS Vote Required)

From: Douglas Holland, City Attorney

SUMMARY

The City does not have a regulatory program for mobile food vehicles in the City. Riverside County's restrictive health regulation of mobile food vehicles substantially ameliorated the need for the City to adopt a separate regulatory program. The County's recently adopted regulations that allow mobile food vehicles to prepare food in the vehicle will become effective on April 8, 2014. It is anticipated that the City will experience a large influx of County permitted mobile food vehicles that could commence operation on virtually any street in the City to the potential endangerment of motorists, pedestrians, and bicyclists, and the creation of visual blight and potential economic hardship on permanent food and beverage establishments in the City. This Ordinance will impose an interim, temporary prohibition on the operation of these vehicles within the City, subject to certain exceptions, for six months to allow the City sufficient time to consider and adopt appropriate and necessary time, place, and manner restrictions for mobile food vehicles in the City.

RECOMMENDATION:

1. Waive the reading of the full text of the ordinance and Adopt AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROHIBITING VENDING FROM MOBILE FOOD VEHICLES IN THE CITY, SUBJECT TO CERTAIN EXCEPTIONS, FOR A PERIOD OF SIX MONTHS. (4/5THS Vote Required)

STAFF ANALYSIS:

Prior to this year, the County of Riverside had a very restrictive mobile food vehicle program, based primarily on public health concerns. Mobile food vendors were essentially limited to selling prepackaged foods, hot dogs, popcorn, shaved ice, and hot beverages. Late last year, the Board of Supervisors eased its restrictions on such food trucks. Most importantly, effective on April 8, 2014, mobile food vendors will be able to prepare food on the spot from vehicles equipped with full-fledged kitchens.

The County will continue to inspect, grade, and permit mobile food vehicles under the County's regulatory program. The County's regulations are focused primarily on health and safety concerns but are intended to accommodate the culinary diversity and expanded access these vehicles have provided other communities in the State.


Staff's concern is that the City of Palm Springs has not attempted to regulate mobile food vehicles in the past. With the exception of limited land use regulations that require land use permits under certain circumstances in the City's commercial zones, the City does not have a regulatory program for mobile food vendors. The City essentially deferred to the County and relied on the County's restrictive program to deal with any issues that could arise. The County's revised program, however, will create new conflicts and concerns that raise the question of whether the City should exercise its municipal powers to consider and adopt time, place, and manner restrictions on this activity.

Staff is therefore recommending the City Council adopt an interim urgency ordinance that will prohibit mobile food vending in the City, subject to certain exceptions, to provide the City Council the opportunity to consider, adopt, and implement a comprehensive regulatory program that will ensure that these vehicles will be operated in a manner that preserves public safety and is compatible and beneficial with the entire community. The interim urgency ordinance is not intended to prevent mobile food vendors from operating on private property with the permission of the property owner, subject to any applicable zoning requirements.

Staff is recommending that this interim urgency ordinance remain in effect for 6 months to ensure that this new program will be subject to appropriate public discussion and participation by all interested and affected interests.



Douglas Holland, City Attorney



David Ready, City Manager

Attachment: Ordinance No.

ORDINANCE NO. _____

AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROHIBITING VENDING FROM MOBILE FOOD VEHICLES IN THE CITY, SUBJECT TO CERTAIN EXCEPTIONS, FOR A PERIOD OF SIX MONTHS. (4/5^{THS} Vote Required)

City Attorney Summary

The City does not have a regulatory program for mobile food vehicles in the City. Riverside County's restrictive health regulation of mobile food vehicles substantially ameliorated the need for the City to adopt a separate regulatory program. The County's recently adopted regulations that allow mobile food vehicles to prepare food in the vehicle will become effective on April 8, 2014. It is anticipated that the City will experience a large influx of County permitted mobile food vehicles that could commence operation on virtually any street in the City to the potential endangerment of motorists, pedestrians, and bicyclists, and the creation of visual blight and potential economic hardship on permanent food and beverage establishments in the City. This Ordinance will impose an interim, temporary prohibition on the operation of these vehicles within the City, subject to certain exceptions, for six months to allow the City sufficient time to consider and adopt appropriate and necessary time, place, and manner restrictions for mobile food vehicles in the City.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, FINDS:

- A.** The City is responsible for providing appropriate and necessary time, place, and manner restrictions on commercial activities in the City.
- B.** The County of Riverside has recently adopted a less restrictive mobile food vending regulatory program that will go into effect on April 8, 2014, that will essentially allow vehicles with full-fledge kitchens to prepare and dispense food at virtually any location within the City.
- C.** Without a regulatory program in place, mobile food vehicles could locate on any street in the City, at any time, without regard to vehicular or pedestrian traffic, creation of potential congestion, disruption or interference with school activities or causing attractive nuisances to children going to and from school, and the substantial detraction and adverse economic effect of established restaurants in the City.
- D.** The consideration, adoption, and implementation of a comprehensive regulatory program for mobile food vehicles is necessary to balance the potential adverse effects that could be caused by mobile food vehicles and the potential benefits the community could derive from improving public access to the culinary diversity such vehicles could provide.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:

Section 1. Vending from a Mobile Food Vehicle is prohibited in the City and no person shall vend food from a Mobile Food Vehicle in the City.

Section 2. For the purpose of this Ordinance: the term "Mobile Food Vehicle" means any Category 3, 4, or 5 Mobile Food Facility as identified in Ordinance No. 580.5 of the County of Riverside and currently registered, licensed, and permitted by the County to operate as a Mobile Food Facility; the term "Food" means any item intended primarily for consumption by human beings; and the term "vend" or "vending" means the sale, distribution, or dispensing of Food.

Section 3. The following are exempted from this Ordinance:

- A. A Food cart permitted by land use permits issued by the City.
- B. A Mobile Food Vehicle operating on a street subject to all of the following restrictions:
 - 1. Parked more than One Thousand, Five Hundred Feet from the property line of any school property that serves students younger than 18 years of age.
 - 2. The posted speed limit is thirty-five miles per hour or less.
 - 3. Parked in full compliance with the provisions of the Palm Springs Municipal Code and the California Vehicle Code.
 - 4. The vehicle is only open to prospective customers on the side of the vehicle next to a sidewalk.
 - 5. Parked more than one thousand feet of any eating and drinking establishment unless the vehicle is associated with a certified farmer's market that is open at the time the vehicle is conducting business or at a special event approved by the City.
 - 6. Operate only between the hours of 9:00 am and 7:00 pm.

Section 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law.

Section 5. Findings. The adoption of this Urgency Ordinance is necessary for the immediate protection of the public peace, health, and safety by ensuring the timely and orderly consideration, adoption, and implementation of an appropriate and comprehensive regulatory program for mobile food vehicles in the City. In accordance with Section 312 of the Palm Springs City Charter, the City Council of the City of Palm Springs finds and determines that the adoption of this Urgency Ordinance is necessary to ensure the timely approval of a mobile food vehicle ordinance and for the timely implementation of a new mobile food regulatory

program for the immediate protection of the public peace, health, and safety.

Section 6. Effective Date. The City Council hereby declares, on the basis of the findings set forth in the Recitals and in Section 5 above, that an urgency ordinance is warranted and that this Ordinance is necessary to preserve the public peace, health and safety. Accordingly, this Ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately upon its adoption. This Ordinance shall expire on September 18, 2014 unless otherwise extended by action of the City Council prior to such date.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL
THIS 19th DAY OF MARCH, 2014.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Urgency Ordinance No. _____ is a full, true, and correct copy, and adopted at a regular meeting of the City Council held on the 19th day of March, 2014, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California