



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

ORD-34

333 West Ocean Boulevard 6th Floor • Long Beach, CA 90802 • (562) 570-6845 • Fax (562) 570-5836

December 6, 2011

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare Ordinance amending the Long Beach Municipal Code by adding Chapter 5.37 establishing "Mobile Food Preparation Vehicles" requiring businesses, as defined, to obtain permits to provide this service, read the first time and laid over to the next regular meeting of the City Council for the final reading. (Citywide)

DISCUSSION

On April 12, 2011, the City Council requested the City Attorney to prepare an Ordinance amending the Long Beach Municipal Code (LBMC) by adding Chapter 5.37 establishing "Mobile Food Preparation Vehicles" requiring businesses, as defined, to obtain permits to operate mobile food vending vehicles in the City of Long Beach (City). The subject Ordinance is attached for the City Council's consideration and its first reading.

With the addition of Chapter 5.37 of the LBMC, the City will be creating a policy that provides regulation to a new, rapidly growing business category. Over the past several years, Los Angeles County has seen a dramatic rise in the emergence of "gourmet" food trucks, promulgated through social media, websites, or just word of mouth. This growing industry is based on chefs' offering cuisine not typically found on food trucks and going mobile in the delivery of these foods. In fact, Los Angeles County is the epicenter of this food truck boom. As of 2011, over 120 gourmet trucks have been licensed in Los Angeles County. These food trucks are not replacing the pre-existing catering truck that has historically serviced commercial businesses. In fact, this proposed Ordinance will provide a greater area for these operators to service. Under current LBMC, mobile food preparation vehicles were only allowed to operate in construction sites.

In conjunction with the City Attorney's Office, City staff focused on providing an Ordinance that clearly defined allowable areas of operations that regulate mobile food preparation vehicles' activity, while striving to bring this new trend of food delivery service to the City of Long Beach.

HONORABLE MAYOR AND CITY COUNCIL

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In doing so, we incorporated a business-friendly approach that allows food trucks to operate within the City, pursuant to the proposed conditions. The proposed Ordinance provides the following operating conditions under LBMC Section 5.37.140:

- No food trucks within ten feet of a business entrance (unless business owner provides consent), bus stop, crosswalk, or street corner
- Cannot obstruct free movement of pedestrians
- Can operate at the beach and in public parks, with City permission
- Operator shall keep vending area free of litter
- Vehicles may not stand or park between the hours of 3 a.m. and 6 a.m.
- Operator will maintain compliance of noise limit provisions of LBMC Chapter 8.80
- Operator shall keep and maintain their equipment in a neat and sanitary manner
- Food packaging utilized by operator shall be made from recycled material

The outlined conditions strive to protect pre-established businesses, the public right of way, private property, the flow of traffic, as well as a number of other safeguards. Additionally, this proposed Ordinance entails a number of environmental initiatives: a litter-free provision, noise requirements, and a 30 percent post-consumer recycled material requirement for the goods, materials and supplies generated from food service.

With intent and direction to make Long Beach a more desirable place for food trucks, the City is proposing an alternative for food truck operators with regard to health permits requirements. The proposed Ordinance provides the option of obtaining a health permit from the Long Beach Health Department or obtaining a health permit from Los Angeles County. In October 2010, the Los Angeles County Board of Supervisors passed an Ordinance amending the County code to expand the restaurant letter grade-rating program to food trucks. Currently, the majority of Los Angeles-based food trucks operating are permitted through the Los Angeles County program. In an effort to promote business, maintain health standards and reduce additional permitting fees, this Ordinance proposes this alternative.

The permits issued under this Ordinance are good for one year and are issued on a calendar year basis. In addition, all permittees are required to maintain their vehicles in accordance to the California Vehicle Code, and the proof of appropriate insurance will be required to ensure appropriate coverage and liability.

This matter was reviewed by Assistant City Attorney Heather A. Mahood on September 20, 2011 and Budget Management Officer Victoria Bell on October 26, 2011.

TIMING CONSIDERATIONS

City Council action on this matter is requested on December 6, 2011.

FISCAL IMPACT

The cost of an annual Mobile Food Vending Permit is \$405.47. Permits are issued on a calendar year basis and the permit fee is pro-rated at the time of issuance. For calendar year 2011, the City has issued 121 permits and collected \$49,062 in fees. Revenues generated from this activity will be credited to the General Fund (GP 100) in the Financial Management Department (FM). Upon adoption of this proposed Ordinance, staff anticipates the number of permits issued and fees collected will increase, and may result in a positive local job impact.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

JG:ES
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ATTACHMENT

APPROVED:



PATRICK H. WEST
CITY MANAGER

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 5.37 RELATING
TO MOBILE FOOD PREPARATION VEHICLES

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 5.37 is added to the Long Beach Municipal Code to
read as follows:

CHAPTER 5.37
MOBILE FOOD PREPARATION VEHICLES

5.37.010 Definitions.

Unless the particular provision or the context otherwise requires the
definitions and provisions contained in this Section shall govern the
construction, meaning, and application of words and phrases as used in this
Chapter:

A. "Mobile food preparation vehicle" shall mean any vehicle,
including an unhitched trailer, upon which ready-to-eat food is prepared,
cooked, wrapped, packaged, or portioned for service, sale or distribution.
However, the term "mobile food preparation vehicle" shall not include "retail
food vehicles" as that term is defined in Long Beach Municipal Code Section
5.66.010 or "ice cream trucks" as that term is defined in Long Beach
Municipal Code Section 5.51.010.

5.37.120 Permit required.

1 No person shall engage in, carry on or conduct the business of a
2 mobile food preparation vehicle without first having obtained a permit in
3 accordance with this Chapter, and complying with any and all requirements
4 and regulations as contained and set forth in this Chapter.

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6 5.37.130 Exemptions.

7 The provisions of this Chapter shall not apply to:

8 A. Any participant in a special event or farmers market conducted
9 pursuant to Long Beach Municipal Code Sections 21.53.109 and 21.53.113.

10 B. Any operator who, pursuant to an agreement, license,
11 franchise or permit from the City, operates on property owned or controlled
12 by the City.

13
14 5.37.140 Operating conditions.

15 A. No person may operate a mobile food preparation vehicle:

16 1. Within ten (10) feet from the outer edge of any entrance
17 of any business, including, but not limited to: doors; vestibules; driveways;
18 outdoor dining area entries; and emergency exits as measured in each
19 direction parallel to the building line, during the hours that any business on
20 the premises is open to the public or to persons having or conducting lawful
21 business within those premises. This prohibition may be waived with the
22 written consent of the affected business.

23 2. Within ten (10) feet of any bus stop.

24 3. Within ten (10) feet of any street corner or marked
25 pedestrian crosswalk.

26 4. In any manner that blocks or obstructs the free
27 movement of pedestrians.

28 5. On the beach and in public parks, except with City

1 permission pursuant to Section 5.37.130 above.

2 B. The operator shall keep his or her vending area litter free. He
3 or she must remove litter caused by his or her products off of any public
4 property and other private property.

5 C. The operator shall be subject to the noise limit provisions of
6 Chapter 8.80.

7 D. Such mobile food preparation vehicle may not stand or park
8 between the hours of 3 a.m. and 6 a.m. The vehicle shall comply with the
9 California Vehicle Code at all times.

10 E. In addition to the permit required under this Chapter, the
11 operator must obtain either a City health permit pursuant to Chapter 8.44, or
12 a valid public health license and permit issued by the County of Los Angeles
13 pursuant to Section 8.04.595 of the Los Angeles County Code, and shall
14 have such permit in his or her possession during operations within the City.

15 F. The operator shall keep and maintain his or her equipment in
16 a neat, clean and safe condition and shall conduct all operations in a neat,
17 orderly, safe and sanitary manner. Such operations shall not obstruct,
18 interfere with or impede the free movement or use by the general public of
19 any street, sidewalk, parking area, alley, way or other public or private
20 property. No operations shall be conducted in a manner which disturbs,
21 accosts, confronts, harasses, badgers or annoys any person.

22 G. Food packaging utilized by the operator shall be made from
23 recycled material, which is defined as materials, goods, and supplies with
24 no less than thirty percent of the total weight of which consists of secondary
25 and post-consumer material. For the purposes of this Section, "food
26 packaging" means all bags, sacks, wrapping, containers, bowls, plates,
27 trays, cartons, cups, straws and lids which are not intended for reuse, on or
28 in which any foods or beverages are placed or packaged on the mobile food

1 preparation vehicle.

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3 5.37.150 Application for permit.

4 A. The application for a permit under this Chapter shall be filed
5 with the City Manager or his/her designee upon a form which is furnished by
6 or acceptable to the City Manager or his/her designee. The application shall
7 be filed at least thirty (30) days prior to its proposed effective date. Each
8 application shall be signed under penalty of perjury by the applicant, if a
9 natural person; or by an officer or partner of the applicant, if application is a
10 corporation, partnership, association or unincorporated company and shall
11 contain full, complete and detailed information including, but not limited to,
12 the following:

13 1. The name, address and telephone number of the
14 applicant, if a natural person; or if a corporation, its name, date and place of
15 incorporation, address of its principal place of business and the names of all
16 its officers together with their respective addresses; or if a partnership,
17 association or unincorporated company, then the names of the partners
18 comprising the partnership, association or company, together with their
19 respective ages and addresses. The application shall also state the trade
20 name or style, if any, under which the applicant proposes to operate;

21 2. A description of the nature, extent, character and
22 quality of the proposed operation, including the manner in which such
23 proposed operation will be conducted;

24 3. A description of the food product(s) the applicant
25 intends to sell;

26 4. The specific area or areas thereof which will be utilized
27 in connection with the proposed operation;

28 5. The date or dates or days of the week and the specific

1 times that the described operation is proposed to be conducted;

2 6. Such other information as the City Manager or his/her
3 designee shall require.

4 B. The City Manager or his/her designee may refer the
5 application to the appropriate City departments for review, investigation,
6 evaluation and recommendation regarding approval or disapproval of the
7 application.

8 C. The City Manager or his/her designee may issue a permit
9 under this Section if it is determined that the following criteria have been
10 met:

11 1. That the public convenience and necessity require said
12 activity in the permitted area;

13 2. The proposed activity will not unduly impede, obstruct
14 or interfere with the public's use of the sidewalk or other public or private
15 property;

16 3. The proposed activity will not unduly impede, obstruct
17 or interfere with the operation of emergency vehicles, equipment or
18 personnel in or through the particular permit area;

19 4. The proposed activity will not adversely affect the City's
20 ability to perform municipal functions or furnish City services in the vicinity of
21 the permit area;

22 5. The proposed activity will not present a substantial or
23 unwarranted safety or traffic hazard;

24 6. The proposed activity will not have a significant adverse
25 environmental impact;

26 7. The proposed activity is compatible, consistent and
27 suitable with the character, nature, general theme and appearance of the
28 area; and comports with the public health, safety, morals and welfare.

1 D. In addition to the requirements of this code or other applicable
2 laws or rules or regulations promulgated with the City Manager, each permit
3 shall contain such terms and conditions regarding the time, place and
4 manner of utilizing the City sidewalks or other public property which are
5 determined by the City Manager or his/her designee to be necessary and
6 appropriate under the circumstances. No permit shall be issued under this
7 Section for longer than one (1) year and shall be subject to revocation or
8 cancellation pursuant to Chapter 5.06 herein at any time that it is
9 determined that the permittee has violated any applicable law, rule or
10 regulation or that it is in the City's best interests to revoke or cancel said
11 permit. In the event that an annual permit is not renewed, it will be
12 automatically cancelled. Each permit issued hereunder shall be subject to
13 the provisions of this code and all other applicable laws, rules and
14 regulations which are in existence at the time the permit is issued or which
15 are enacted, promulgated or amended at any time during the term of the
16 permit. Each permitted activity shall be subject to inspection at any time by
17 the Director of Financial Management, license inspectors, police officers,
18 health department officials or other City representatives for the purpose of
19 determining whether the activity is being conducted in compliance with the
20 requirements of the permit and any applicable laws, rules or regulations. No
21 person shall hinder, impede, interfere with or obstruct any such inspection.

22 E. Operation of the mobile food preparation vehicle may be
23 conducted only on the dates and at the times and locations and in
24 accordance with the terms, conditions and requirements specified in the
25 permit, and pursuant to all applicable laws, rules and regulations.

26 F. Each permittee shall, at all times while engaging in such
27 activities, display a valid vendor identification card, decal or sticker issued
28 by the City Manager or his/her designee.

1 G. The following indemnification and insurance shall apply for
2 each permit issued under this Section:

3 1. Each permit shall expressly provide that the permittee
4 shall defend, indemnify and hold the City, its officials, employees and
5 agents harmless from and against all claims, damage, demands, causes of
6 action, loss, liability, proceedings, costs and expenses (including reasonable
7 attorney fees) of any kind (collectively in this Subsection, "claim") arising
8 from or attributable to or caused by the alleged acts or omissions of
9 permittee, its officers, agents or employees in connection with the
10 permittee's activities under the permit; and the permit shall expressly state
11 that permittee shall, at permittee's sole cost and expense, pay any
12 settlement and satisfy any judgment rendered against the City, its officers,
13 employees and agents resulting from permittee's activities under the permit.
14 Permittee shall notify the City of any claim within ten (10) days.

15 2. Concurrent with the issuance of a permit under this
16 Section and as a condition precedent to the effectiveness of the permit,
17 permittee shall procure and maintain in full force and effect during the term
18 of the permit insurance as prescribed in regulations issued by the City
19 Manager pursuant to Section 2.84.040, and shall provide proof of such
20 insurance with the permit application.

21 H. Every applicant and permittee shall pay the fees established
22 for such applications and permits by resolution of the City Council.

23 I. Permittees holding valid vending permits issued under this
24 Section shall be subject to the business license provisions of this code and
25 shall pay the business license taxes established for such operations.

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27 Section 2. Section 5.66.015 of the Long Beach Municipal Code is
28 amended to read as follows:

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5.66.015 Mobile Food Preparation Vehicles.

“Mobile food preparation vehicles, as defined in Long Beach Municipal Code Section 5.37.010, shall not be subject to the terms and conditions of this Chapter, but instead are subject to the requirements of Chapter 3.57.”

Section 3. Subsection E of Section 8.44.010 of the Long Beach Municipal Code is amended to read as follows:

“E. Mobile food vending vehicle” means and includes any self-powered vehicle wherein or wherefrom only wrapped food, foodstuffs, products, liquids or material intended for food or drink for human consumption are sold, served, distributed, or offered for sale, and mobile food preparation vehicles, as defined in Long Beach Municipal Code Section 3.57.010. A vehicle from which bakery products, ice cream, meat and eggs shall be dispensed shall not be included within the term "mobile food vending vehicle.”

Section 4. Section 8.68.095 is added to the Long Beach Municipal Code to read as follows:

“Section 8.68.095 – Mobile Food Preparation Vehicle
Smoking is prohibited and is unlawful at and within forty feet (40') of any operating mobile food preparation vehicle, as defined in Section 5.37.010 of the Long Beach Municipal Code.”

Section 5. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the

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Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664