



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

January 16, 2013

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

File No. 120193 [Public Works Code - Mobile Food Truck Locations]

Small Business Commission Recommendation: **Approval with modification**

Dear Ms. Calvillo:

On November 26, 2012 the Small Business Commission (SBC) voted 6-0 to recommend approval of BOS File No. 120193 with one modification.

This is a broad based ordinance that makes several key changes to the Public Works Code as it relates to Mobile Food Facilities (MFF's). The Commission recognizes that inherently there are tensions between the MFF industry and brick and mortar business advocates. The Commission finds that this ordinance fairly balances both interests. The Commission recognizes that Supervisor Wiener has met with stakeholders for over a year and the Commission commends Supervisor Wiener for introducing this important and long considered legislation.

Most significantly, this ordinance will create an automatic denial of MFF permits when the location is proposed to be within 50 feet of the edge of a restaurant that is in operation at the time of application. While offering protections to brick and mortar businesses, this amendment will result in a significant reduction in locations currently permissible for MFF's. The SBC carefully considered testimony from both the MFF industry and advocates for brick and mortar establishments. The MFF industry argued for a lesser buffer distance and conversely, brick and mortar advocates lobbied for an increased buffer distance. After reviewing testimony, the SBC determined that Supervisor Wiener's proposed 50 foot buffer is an appropriate and balanced compromise.

An additional change that the ordinance makes is restricting each MFF to three 24 hour cycles (or portion thereof) at each location. Current MFF permit applications often list hours of operation for one location between 5-7 days per week, up to 8 hours per day. MFF vendors are casting their nets too wide, which understandably causes alarm with restaurants and property owners and was not the intent of the 2010 MFF legislation. The above amendments will now require MFF operators to be more specific and considered in their proposed hours and days of operation. This will improve the permit notification to businesses in the 300 foot noticing area with the proposed days and hours of operation that are representative the MFF intend use. The Commission does note that upon this change, there will be no opportunity for DPW to approve a permit for an MFF that wants to operate more than three days a week in a food desert area.

The Commission understands the need to make the school district feel comfortable with the MFF



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program and therefore supports the reduction of the buffer surrounding middle and junior high schools from 1500 feet to 500 feet and for *public* high schools from 1500 feet to 1000 feet (except for specified schools which have a 750 foot buffer.) The Commission finds that this reduction in buffer will enhance opportunities for food trucks to locate outside of the downtown C-3area, but for the record does call into question the absolute need for the buffer.

One of the goals of the MFF program is to promote and enhance the business opportunities for low to moderate income entrepreneurs. Formula retail fast food chains businesses are establishing their own mobile food trucks to capitalize on the popularity of food trucks. Formula retail fast food chains food trucks are not in line with the policy goals of the MFF program and is one of the concerns of the school district in allowing MFF's close to school grounds. Without any controls, formula retail MFFs can operate in areas where formula retail is banned or is a conditional use. The SBC has logistical concerns with the Planning Commission regulating businesses that are located on the public right of way; as this jurisdiction is typically under the Department of Public Works, SFPD, and MTA. Additionally, the Planning Commission calendar already causes delays in the scheduling of brick and mortar businesses hearings and an additional workload will only exasperate this problem.

The Commission strongly supports the implementation of formula retail controls, but at this time the SBC recommends amending the ordinance to prohibit formula retail MFF's outright until such time a process can be developed that establishes conditional use type of controls in the public right of way. The Commission understands that this policy may have an effect on San Francisco based businesses, which is not ideal, however until such time that a policy for the public right of way is developed a citywide prohibition is the most prudent action to take and will allow the other key provision of the ordinance to move forward.

The proposed legislation does allow for formula retail MFF to obtain Single Day of Operation permit and the Commission support this policy.

Currently a MFF applicant is required to notify all businesses within 300 feet of a proposed location. It was not the intent of the 2010 legislation to require notification of all businesses in high rise buildings, but as currently written, the legal interpretation requires that all tenants of an office building be notified of the proposed MFF. This has added to the cost of mailings and increased the burden on staff resources at the Department of Public Works. Additionally, the original legislation did not require noticing to the property owner, this change in the ordinance will now require that the applicant notify ground floor tenants and the building owner/manager for permits between 6am and 8pm and extend the notification requirement to residential property owners and managers for permits between 8:00pm and 3:00am. The Commission supports these changes.

Lastly, the Commission recognizes that MFF's may wish to operate in conjunction with nightlife establishments, particularly in situations where brick and mortar businesses are closed for the evening. The Commission requests that Supervisor Wiener work with the Entertainment Commission and nightlife industry to adapt proposed regulations to recognize and accommodate this scenario.

The Commission supports additional aspects of the ordinance, including clarifications and technical



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amendments that are being proposed. With amendments to the formula retail control provisions of this ordinance, the Commission urges that the Board of Supervisors approve this ordinance and the Mayor sign it into law.

Sincerely,

A handwritten signature in black ink that reads 'Regina Dick-Endrizzi'.

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Jason Elliott, Mayor's Office
Supervisor Wiener