FILE NO. 240056

LEGISLATIVE DIGEST
(Revised 4/15/2024)

[Public Works Code - Vending Requirements and Restrictions]

Ordinance amending the Public Works Code to streamline the enforcement of vending requirements and restrictions, clarify vending permit application and compliance requirements, require certain vending permittees to register with the Tax Collector and pay related fees, prohibit stationary sidewalk vendors from vending in residential districts as defined in the Planning Code, limit permissible vending times, and streamline approval of vending regulations; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Currently, Article 5.9 of the Public Works Code authorizes the Department of Public Works to regulate "Vending" on City property, including sidewalks. To Vend means "[t]o sell, offer for sale, expose or display for sale, solicit offers to purchase, or barter Food or Merchandise" and Vending "includes offering free samples of Food or Merchandise that are also for sale, or negotiating fees for Food or Merchandise." (Public Works Code Sec. 5.9-2.)

Amendments to Current Law

This ordinance would amend the following sections of Public Works Code Article 5.9 to implement improvements to Vendor permitting and permit enforcement, as described below.

- Section 5.9-2 (Definitions).
    - Clarifies that "Merchandise" does not include "Food", unpackaged food, or food that is cooked or prepared onsite.
    - Clarifies that "Vending" includes soliciting offers to lease and "soliciting customers to enter into commercial agreements."
- Section 5.9-3 (Permit Required; Mandatory Display; Proof of Purchase). Requires that Vendors "immediately provide proof of ownership" or authorization to sell Food and/or Merchandise.
- Section 5.9-4 (Vendor Permit Type). Requires a Vendor permit to include the Vendor's photograph to prevent the sale or transfer of the permit.
- Section 5.9-5 (Permit Application; Fee).
    - Clarifies that Vendors Vending of any Food and/or Merchandise, "whether new or used," must maintain proof of ownership or authorization to sell the Food and/or Merchandise and must produce such documentation "immediately upon request."

    - Requires Vendor permit applications to include, as may be applicable, the Vendor's California seller's permit number (California Department of Tax and Fee Administration sales tax number).
- Section 5.9-6 (Vending Restrictions "and Requirements," as amended).
    - Prohibits Stationary Vendors from operating in any RH (Residential, House) districts as defined in the San Francisco Planning Code.
    - Requires Vendor permits to include permissible Vending hours, which "shall be consistent and not in conflict with" any limitations on hours of operation imposed by federal, state, and City laws on other businesses or uses on the streets on which the Vendor operates.
    - Requires Vendors engaged in Vending that is subject to the Article 12 of the Business and Tax Regulations Code to register with the Tax Collector.
- Section 5.9-8 (Delegation of Authority for Rulemaking). Authorizes the Department to adopt and amend Vending regulations without the Public Works Commission's approval.
- Section 5.9-11 (Enforcement).
    - Removes the requirement that the Department provide a written warning prior to issuing a Notice of Violation.
    - Clarifies that when an authorized Enforcement Official orders a Vendor to cease vending due to a safety hazard or an emergency or the Vendor's lack of a Vendor permit, the Vendor would have ten minutes to remove all the Vendor's Food, Merchandise, or any other Vending paraphernalia before they would be subject to seizure by the City.
    - Under existing law, the City would place the items in temporary storage, excluding any items that may cause public health, safety, or infestation issues.

Background Information

This ordinance is intended to implement improvements to Vendor permitting and Vendor permit enforcement in order to address objective health, safety, and welfare concerns associated with Vending. In addition, the ordinance would enable the Department to update and amend its regulations more expeditiously to better address urgent conditions and concerns related to Vending on City property.

On April 15, 2024, the Rules Committee approved an amendment to the proposed ordinance to leave unchanged the following provision of Section 5.9-11(d)(3), which had been and is no longer proposed to be deleted: "and shall urge the Vendor to make every effort to remove the items, or cause their removal."

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