

BOARD of SUPERVISORS



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October 26, 2018

File No. 181026

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On October 23, 2018, Supervisor Mandelman following legislation:

File No. 181026

Ordinance amending the Public Works Code to create a Temporary Mobile Caterer permit for restaurants that cannot operate during mandatory seismic retrofits of their buildings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

1 [Public Works Code - Temporary Mobile Caterer Permit]

2
3 **Ordinance amending the Public Works Code to create a Temporary Mobile Caterer**
4 **permit for restaurants that cannot operate during mandatory seismic retrofits of their**
5 **buildings.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. CEQA Findings.

15 The Planning Department has determined that the actions contemplated in this
16 ordinance comply with the California Environmental Quality Act (California Public Resources
17 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
18 Supervisors in File No. ___ and is incorporated herein by reference. The Board affirms this
19 determination.

20 Section 2. Article 5.8 of the Public Works Code is hereby amended by adding Section
21 184.95, to read as follows:

22 **SEC. 184.95. TEMPORARY MOBILE CATERER PERMITS.**

23 **(a) Purpose and Scope. A restaurant, as defined in Section 184.85(b)(4), may seek a**
24 **Temporary Mobile Caterer permit from Public Works if it is unable to operate during its regular**
25 **business hours due to mandatory seismic retrofit construction work to the building containing the**

1 restaurant, as required by San Francisco Existing Building Code Chapter 4D. Under this Section
2 184.95, a restaurant may operate a Mobile Caterer as a Temporary Mobile Caterer and obtain a
3 Temporary Mobile Caterer permit subject to the conditions and requirements set forth in subsections
4 (b) and (c).

5 (b) **Permit Privileges and Conditions.** For a Temporary Mobile Caterer that meets the criteria
6 set forth in subsection (a) and has obtained a Temporary Mobile Caterer permit under subsection (c),
7 the following shall supersede otherwise applicable provisions of the Public Works Code:

8 (1) Notwithstanding subsections 184.85(b)(3)(E)-(F), the Temporary Mobile Caterer
9 shall not be subject to any restrictions with respect to Locations relative to junior high schools, middle
10 schools, or high schools.

11 (2) Notwithstanding subsections 184.85(b)(4) and 184.85(b)(6), the Temporary Mobile
12 Caterer may operate within 75 feet of another restaurant's entrance or within 50 feet of another
13 restaurant's façade.

14 (3) Notwithstanding subsection 184.85(b)(7), the Temporary Mobile Caterer may sell or
15 distribute food for the same hours and number of days as its affiliated restaurant operated prior to its
16 closure due to a seismic retrofit; provided, however, that a Temporary Mobile Caterer may also
17 operate for one hour before and one hour after those operating hours to prepare for or clean up after
18 food service. But Temporary Mobile Caterers may not sell or distribute food after 10:00 p.m.

19 (4) Notwithstanding Section 184.88, the Temporary Mobile Caterer shall not be subject
20 to notice, hearing, or appeal procedures set forth in that Section. Permitting decisions regarding
21 Temporary Mobile Caterer permits may be appealed to the Board of Appeals in accordance with
22 existing law.

23 (5) The Temporary Mobile Caterer may obtain a Street Space Permit under Public
24 Works Code Section 724 for the Location(s) specified in Section 184.95(c)(5) and shall not be subject
25 to the parking plan requirements of Public Works Code Section 724(b)(4).

1 (c) Requirements for a Permit to be Valid and Operative. To avail itself of the privileges and
2 conditions set forth in subsection (b), the Temporary Mobile Caterer must satisfy all requirements as
3 specified in Article 5.8, other than those identified in subsection (b) above, and must also satisfy the
4 following requirements:

5 (1) The Temporary Mobile Caterer may operate under a Temporary Mobile Caterer
6 permit only after the issuance of a Department of Building Inspection permit for a mandatory seismic
7 retrofit (required by San Francisco Existing Building Code Chapter 4D) for the building containing the
8 affiliated restaurant is final and effective.

9 (2) The Temporary Mobile Caterer may not operate under a Temporary Mobile Caterer
10 permit after the Department of Building Inspection has issued a temporary certificate of occupancy or
11 final certificate of occupancy, whichever is earlier, for the building containing the affiliated restaurant.

12 (3) A Temporary Mobile Caterer may not operate under a Temporary Mobile Caterer
13 permit for a period longer than six consecutive months; provided, however, that a Temporary Mobile
14 Caterer may obtain an extension of this permit period from Public Works if the Temporary Mobile
15 Caterer provides a written determination from the Department of Building Inspection that seismic
16 retrofit-related construction on the building containing the affiliated restaurant is continuing.

17 (4) A Temporary Mobile Caterer may operate under a Temporary Mobile Caterer
18 permit only using the same name and/or brand as the restaurant impacted by the mandatory seismic
19 retrofit.

20 (5) A Temporary Mobile Caterer may operate under a Temporary Mobile Caterer
21 permit only after notifying all restaurants within 75 feet of its proposed Location(s) of its intent to
22 operate and having provided to Public Works an affidavit attesting that it has complied with this
23 notification requirement.

24 (6) The Temporary Mobile Caterer shall operate within 50 feet of the façade of its
25 affiliated restaurant and may only use a Location on the same side of the street as that restaurant.

1 (7) The Temporary Mobile Caterer may operate under a Temporary Mobile Caterer
2 permit only after having provided at least 10 days public notice to neighboring residents and
3 businesses.

4 (d) **Sunset Date.** This Section 184.95 shall expire by operation of law on January 1, 2021;
5 provided, however, that if State or local law extends the compliance deadline for mandatory soft-story
6 seismic retrofits, this Section shall expire on the day following the extended deadline. Upon expiration
7 of this Section, the City Attorney shall cause the Section to be removed from the Public Works Code.

8
9 Section 3. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.

13
14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By: 
17 _____
18 ANDREW SHEN
19 Deputy City Attorney

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LEGISLATIVE DIGEST

[Public Works Code - Temporary Mobile Caterer Permit]

Ordinance amending the Public Works Code to create a Temporary Mobile Caterer permit for restaurants that cannot operate during mandatory seismic retrofits of their buildings.

Existing Law

Public Works Code Article 5.8 regulates Mobile Food Facilities in San Francisco. Mobile Food Facilities includes both Mobile Caterers, motorized vehicles such as food trucks, and Pushcarts. Article 5.8 currently requires both types of Mobile Food Facilities to obtain a permit from Public Works, along with approval by the Director of Health and the Fire Marshal, before operating in public street, sidewalk, alley, or any other public right-of-way.

Under Article 5.8, Mobile Caterers are subject to location restrictions:

- Mobile Caterers may not operate within a certain distance from public middle schools, junior high schools, and certain high schools;
- Mobile Caterers may not operate within 75 feet of any restaurant's entrance; and
- Mobile Caterers may not serve in one location more than three days per week.

Mobile Caterers seeking permits must provide public notice of their intent to operate in a certain location. Members of the public may protest the issuance of such permits and request a hearing before the Director of Public Works. The Director's decision is subject to a further appeal to the Board of Appeals.

Chapter 4D of the San Francisco Existing Building Code addresses the mandatory seismic retrofit of wood-frame buildings. This Chapter establishes seismic retrofit requirements to reduce the collapse risk of residential buildings with vulnerable lower stories. Section 405D of this Chapter imposes compliance deadlines for these mandatory retrofits, and generally requires all work is to be completed by December 31, 2020.

Amendments to Current Law

This ordinance would establish a Temporary Mobile Caterer permit for restaurants that cannot operate during a mandatory seismic retrofit. Under this permit, such a restaurant may operate a food truck as a Temporary Mobile Caterer during any ongoing construction. The Temporary Mobile Caterer would:

- not be subject to restrictions with respect to locations relative to middle schools, junior high schools, and high schools;
- not be restricted from operating within 75 feet of another restaurant's entrance; and
- be able to operate for the same hours and days as its affiliated restaurant.

Temporary Mobile Caterers would not be subject to the notice and hearing procedures that apply to Mobile Food Facilities, but Public Works' permitting decisions would be subject to appeal to the Board of Appeals. Temporary Mobile Caterers could also obtain a street space permit under Public Works Code Section 724.

The Temporary Mobile Caterer must use the same name and/or brand as its affiliated restaurant, and must operate within 50 feet of that restaurant.

This ordinance will sunset on December 31, 2020, but if State or local law extends the compliance deadline for mandatory soft-story seismic retrofits, this ordinance will expire on that deadline.

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