



City of San Leandro

Meeting Date: June 2, 2014

Staff Report

File Number: 14-194

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.J.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for an Ordinance Adding Chapter 4-34 of the San Leandro Municipal Code Pertaining to Mobile Food Vending; an Ordinance Amending Chapter 4-5 of the San Leandro Municipal Code Pertaining to Peddlers, Solicitors, and Itinerant Merchants; and a Resolution to Reduce the Business License Tax for Mobile Food Vendors

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council conduct a first reading and pass to print the following ordinances to amend the San Leandro Municipal Code, and approve a resolution to reduce the Business License Tax, as more fully described below:

1. Approve on first reading (pass-to-print) an ordinance adding Chapter 4-34 to Title 4 of the San Leandro Municipal Code, to be entitled "Mobile Food Vending"; and
2. Approve on first reading (pass-to-print) an ordinance to amend Chapter 4-5 of Title 4 of the San Leandro Municipal Code entitled "Peddlers, Solicitors, and Itinerant Merchants"; and
3. Approve a resolution to reduce the Business License Tax for Mobile Food Vendors, to take effect upon the effective date of the proposed ordinance that adds Chapter 4-34 to Title 4 of the San Leandro Municipal Code.

BACKGROUND

The City Council, residents, businesses and employees of San Leandro businesses have expressed interest in attracting a wide range of gourmet food choices to the City. To satisfy this demand, Office of Business Development staff sought out food truck event organizers "Food Truck Mafia" and held the first "San Leandro Street Eats" event in Downtown San Leandro last summer. The first night was a success with nine food trucks in attendance and long lines for each truck's food offerings. Weekly events have continued and a steady crowd gathers for the many food truck vendors in the Food Truck Mafia group. However, the

popularity of these events has not satisfied the demand for additional food options in San Leandro.

The most frequent complaint from interviews with area business leaders in the Next Generation Workplace District Study is the lack of desirable dining options in the industrial area. At the February 11, 2014 City Council meeting, the Office of Business Development presented the Next Generation Workplace District Study Action Plan. The Action Plan proposes to incentivize pop-up restaurants or alternatively mobile food trucks to increase food options Citywide, especially in the industrial areas. However, while preparing the Action Plan and by promoting events such as the Downtown Street Eats, City staff found the existing regulations to be ill-equipped, outdated with current law and in many cases cost prohibitive for food truck businesses.

Analysis

According to the National Restaurant Association, the growth of mobile food trucks will soar in the next five years, generating up to \$2.7 billion in revenue nationally by 2017-up from \$650 million in 2012. Nationwide, cities are seeing more food trucks in operation, some in unexpected places like office and industrial parks, where zoning ordinances typically preclude or make it costly to establish restaurants. While ice cream trucks and job-site lunch wagons haven't disappeared, they are increasingly being joined by gourmet mobile food vendors.

Historically, selling wares and food products on the street, though not prohibited, was considered a negative or an unwanted business. Strict peddler and solicitor ordinances were created to ensure the public's safety and welfare from potential nuisances created by outdoor sales, door-to-door sales and street vending. Fingerprinting, background checks, costly license fees and permits are the foundation of almost all peddler/solicitor ordinances. However, the new wave of mobile food vending does not belong in the category of peddler or solicitor. To keep up with this rapidly evolving industry, many cities across the Bay Area and the nation have upgraded their regulations, removing fingerprinting requirements, lowering or flattening fees, and clearly outlining permitted locations and separations.

Regulatory Framework

The City's ability to regulate vehicular vending on public streets is limited by state law. The California Vehicle Code (CVC) preempts local parking regulations except as expressly authorized by state law. CVC Section 22455 provides that vendors must bring their vehicle to a complete stop and be legally parked before vending, and further gives cities the ability to regulate "the type of vending and the time, place, and manner of vending upon any street" for reasons of public safety. On private and public property, as opposed to public streets, the City may create appropriate regulations in the interest of protecting public health, safety and welfare.

Under another item on tonight's agenda, the proposed zoning amendments introduce the mobile food vending land use category and the permitted zoning categories on private and public property. The proposed ordinance attached to this staff report adds the supplemental use and public street regulations, as well as permitting requirements, to the San Leandro Municipal Code with reference to the City's Zoning Code.

Proposed Mobile Food Vending Ordinance Outline

To prepare this ordinance, staff used the following methods to better understand options in creating appropriate regulations:

- Understand state law and City authority to regulate mobile food vending;
- Observe current food truck operations in the City;
- Recognize community, business and Council concerns;
- Examine which options are appropriate, considering existing and potential issues that are specific to the City;
- Survey other cities throughout the Bay Area, California and other cities nationwide that have recently updated their regulations.

The following is an ordinance summary and rationale for regulating mobile food vendors:

State & Alameda County Compliance

Food trucks are required to comply with applicable city, state and federal regulations. Food trucks must obtain many necessary permits, including a business license permit, environmental health permits from Alameda County to ensure food safety and handling, and a Seller's Permit from the California Board of Equalization to ensure collection of retail sales taxes. All mobile food vendors will be required to display the Alameda County Environmental Health Department permit in plain view of customers and any licensing agencies. The Health Department's new color placard grading system will also be on display as required by that agency's policies. All mobile food vendors will be required to provide access to restroom facilities for themselves and employees within 200 feet of their location when stationary for more than one hour.

Mobile Food Vending Permit

A new permit and business license application will be created for Mobile Food Vending. The permit application will require copies of all other applicable licenses, registrations and permits. Insurance and indemnification requirements will be the same as they are in the current peddler application requirements. A route map or written description showing the proposed routes and locations for each mobile food vending unit will be required at the time of application and must be updated when changes occur.

Public Safety, Parking & Traffic/Congestion

The update of the City's Mobile Food Vending ordinance provides the opportunity to address minimum public safety and traffic congestion standards for mobile food vending activities. The following is a summary of the important public safety, parking / traffic regulations proposed in the ordinance:

- **Setbacks & Traffic Circulation.** Minimum distances between driveways, curb returns and prohibitions in vision triangles are necessary to ensure that mobile food vending units do not create dangerous situations for other vehicles and pedestrians. Vendors must observe all required traffic statutes, ordinances and posted signage on public streets.
- **Self-sufficient utilities.** Mobile food vending units must be self-sufficient in regards to all utilities needed for operation unless permits for utility hookups are approved by the City.
- **Alcohol Sales.** No alcohol sales or service are permitted by vendors unless the vendor is approved to vend from the State Department of Alcoholic Beverage Control.
- **Fingerprinting.** Fingerprinting for background checks will only be required for mobile ice

cream vendors because their business involves sales and service to children. All other mobile food vendors will no longer be required to provide fingerprints or background checks to the Police Department.

- Separations. Separations from specific land uses are proposed in order to reduce adverse safety, circulation, and traffic impacts between activities. Some exceptions can be permitted as long as there are no adverse safety, circulation and/or traffic impacts between the two activities. Below is a summary of the separation requirements:
 - Schools. A 500-foot separation between mobile food vendors and schools is proposed.
 - Restaurants/Food Service Establishments. A 300-foot separation is proposed between mobile food vendors and active full service restaurants, cafes, delicatessens or fast food establishments. This separation is necessary in order to reduce adverse impacts on parking lot and pedestrian circulation, space availability and traffic congestion in and around these high traffic generating land uses .
 - Approved Community Events. This 300-foot separation is necessary to prevent any unapproved or scofflaw vendors from operating outside of the special event/community event approval requirements and conditions.

Private and Public Property Standards

Another problem with the existing peddler/solicitor ordinance is that it did not apply sufficient guidelines for operating on private and/or City-owned properties (as opposed to public streets). Previously, the only way these activities could occur on private/City-owned property was through the approval of an outdoor facilities or special event permit. These approvals were costly and not appropriate for the one or two mobile food vending units that some businesses sought to invite for their employees during the workday. The associated Zoning Code amendments provide the zoning districts where mobile food vending may occur on private property.

Minimum standards are necessary for maintaining cleanliness, adequate parking, loading, on-site circulation and access for emergency vehicles. Property owner permission is required. However, only three mobile food vending units or less may be on one parcel of property at a time. Additional mobile food vending units may be permitted by a City approved or sponsored special event, temporary use or outdoor facilities permit pursuant to the San Leandro Zoning Code.

Clustering on Public Streets

No separation between units on public streets is proposed. However, in order to reduce adverse impacts such as traffic congestion and parking space reductions from clustering , a fivehour time limit in one location within an 18hour period will be required. The maximum time limit will ensure that food trucks do not establish semi-permanent locations and do not remain in one location for longer than the time required to provide one full meal service.

Solid Waste & Environmental Standards

Maintaining cleanliness in and around the mobile food vending unit is important considering that these activities are outside and mobile. Each unit must have a solid waste container within two feet while also maintaining appropriate clearance on sidewalks for pedestrian accessibility. Mobile food vendors cannot use public or private solid waste facilities unless granted written permission. Other considerations related to grease, oil and other cooking

waste are addressed in this ordinance through compliance with the Alameda County Environmental Health Department permit.

Shoreline Recreation Area

The existing peddler ordinance prohibits mobile food vending, except for ice cream, in the Shoreline Recreation Area, which includes the San Leandro Marina. The prohibition includes both private/public property and the public streets. As stated above, the California Vehicle Code precludes any regulations that prohibit mobile food vending on public streets. The proposed ordinance will permit this activity on the Shoreline's public streets. The proposed Zoning Code amendments will not permit the activity on private or public property zoned CR, Community Recreation District. Revisions to the existing Peddler/Solicitor ordinance are recommended to comply with state law pertaining to vending on public streets.

Inspections, Revocation & Enforcement

Inspections may be performed by City representatives at any time while the business is operating within the City. Access must be provided by anyone working on the mobile food vending permit and the business license and health department permits must be on display. The Mobile Food Vending Permit revocation process follows the business license revocation procedures. The violations and enforcement section outlines the authority granted to the City Manager to administratively require removal or relocation of mobile food vending units whenever it appears that the activities are having an adverse impact. Additional enforcement actions can be taken with the issuance of code violation citations, authority to tow mobile food vending units, and suspension of mobile food vending permits. These procedures ensure a mobile food vendor's due process rights through an appeal procedure.

Business License Tax & Fees

A general theme coming out of the discussions with the Food Truck Mafia group and individual mobile food vendors is that the existing fee structure is cost prohibitive and outdated. Currently, each mobile food vendor must have a separate peddler permit for themselves and each employee in the mobile food vending unit and all employees must be fingerprinted in conjunction with a background check. Typically, a mobile food vendor has an average of three employees, which would require a business license tax of approximately \$390 annually for each mobile food vending unit, not including any special event/outdoor facilities permit fee of \$400, or any zoning entitlements (private/public property) of \$100.

Although this fee structure was tolerable for catering trucks that work a fixed route and focus their business in San Leandro, the cost burden is particularly acute for the more modern "gourmet" food trucks. This is because the newer trucks work over a far broader territory and may need to obtain permits in 10-20 different cities.

Over the past year, staff granted flexibility to the mobile food vendors by working with them on alternative fee scenarios while preparing this ordinance. However, a more simplified and affordable business license tax structure is necessary in order to continue attracting and promoting the upscale, gourmet style mobile food vending businesses that the City, residents, and businesses desire.

The existing breakdown for a peddler/solicitor business license tax for a three-employee operation is as follows:

Business License Fee:	\$158.10
State CASp Fee:	\$1.00
Peddler/Solicitor Permit Fee:	\$75.00
<u>Fingerprinting/Police Admin Fee:</u>	<u>\$156.00</u>
Total Fee/Tax:	\$390.10

These fees were originally intended for ice cream truck vendors who traditionally have only one person in the truck. Mobile food vending has changed dramatically just in the last several years such that mobile food vendors now feature larger mobile vending units offering upscale gourmet food options with 2-4 employees. The proposed ordinance will require only one mobile food vending permit and business license per mobile food vending unit no matter how many employees work in the unit. Additionally, as the focus of the permit is on the business rather than the employees, fingerprinting will no longer be required, except for ice cream vendors.

Staff researched comparative business license taxes in surrounding cities and throughout the Bay Area that have mobile food vending ordinances and found fees range significantly. Business license taxes for surrounding cities such as Alameda, Hayward, Oakland and unincorporated Alameda County are \$105, \$66.80, \$168 and \$59 respectively, not including zoning or other entitlement fees.

To attract Mobile Food Vendors to the City, the attached resolution proposes to reduce the tax for mobile food vendors by waiving the \$36.50 per employee portion and charging only the annual base fee of \$121.60. Mobile food vendors will be required to have a mobile food vending permit/business license for each mobile food vending unit even if owned by the same vendor.

The proposed breakdown for a mobile food permit and business license tax is as follows:

Business License Fee (base fee only):	\$121.60
State CASp Fee:	\$1.00
Mobile Food Vendor Permit Fee:	\$0
<u>Fingerprinting/Police Admin Fee:</u>	<u>\$0</u>
Total Fee/Tax:	\$122.60

Note: Ice cream vendors are required to pay \$52 fingerprinting/Police Admin Fee for a total cost of \$194.60

Current Agency Policies

The following Municipal and Zoning Code Sections currently regulate mobile food vending:

- Municipal Code Title 2, Chapter 2-2, Business License
- Municipal Code Title 4, Chapter 4-5, Peddlers, Solicitors & Itinerant Merchants
- Zoning Code Part IV, Article 16, Division 3, Section 4-1662 Outdoor Facilities and Storage/Loading Facilities.

Environmental Review

The proposed amendments to the Municipal Code are exempt from the California

Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines because the General Rule exemption states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, that the activity is not subject to CEQA. In addition, CEQA defines “project” as an activity that may result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment (Public Resources Code Section 21065).

Updating the Municipal Code in the manner described herein does not alter the existing zoning regulations in any substantive manner such that there is a possibility for the amendments to result in any direct or indirect physical change in the environment or cause any significant environmental effects. Any potential indirect secondary impacts from the proposed amendments on the physical environment are speculative and are not reasonably foreseeable, and are, therefore, not subject to review under CEQA.

Board/Commission Review and Actions

On January 30, 2014, the Planning Commission and the Board of Zoning Adjustments held a joint workshop meeting to discuss the Zoning Code amendments and offered comments relating to a hypothetical mobile food vending ordinance. Staff considered those comments and incorporated them into a modern Mobile Food Vending ordinance where it was deemed practical and consistent with the purpose of modernizing the regulations.

Summary of Public Outreach Efforts

The Office of Business Development sought review and comment on the proposed ordinance from the following internal and external individuals, organizations, and departments:

- Presented summary of the ordinance at the March 28, 2014 San Leandro Downtown Association meeting
- Met with the Alameda County Health Department mobile food inspection team on April 14, 2014
- Spoke individually with multiple food truck operators who conduct business within San Leandro

Legal Analysis

The attached ordinances, resolution and related materials have been reviewed and edited by the City Attorney’s Office. At staff’s request, the City Attorney’s Office conducted legal analysis regarding the proposed regulatory scheme, and finds that the ordinance as proposed passes legal muster.

Fiscal Impacts

Staff believes the business license fee reduction will not negatively impact the General Fund. The purpose of modernizing the Municipal Code regulations and simplifying the fees is to encourage more mobile food vending throughout the City. Although the City will collect less tax per food truck, there will be more trucks operating within the City. Therefore, revenue generated would be either neutral or not significantly less than the existing revenues.

ATTACHMENT(S)

None

PREPARED BY: Justin Proffitt, AICP, Project Specialist, Community Development



City of San Leandro

Meeting Date: June 2, 2014

Ordinance

File Number: 14-211

Agenda Section: CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: ORDINANCE Amending Title 4, Chapter 4-5 of the San Leandro Municipal Code Relating to Peddlers, Solicitors, and Itinerant Merchants (provides for consistency with state law pertaining to public street vending)

The City Council of the City of San Leandro does ORDAIN as follows:

SECTION 1. That a Chapter 4-34 of Article 4, entitled "Mobile Food Vending", is hereby added to the City of San Leandro Municipal Code, and shall, in its entirety, read as follows:

Findings.

The City Council for the City of San Leandro finds that:

1. California Vehicle Code section 22455 allows municipalities to regulate mobile food vending in order to protect public safety; and
2. Mobile food vending has the potential to pose dangers to the public health and welfare of residents of the City of San Leandro, including specific negative impacts on public safety, pedestrian and vehicular circulation and traffic. The City of San Leandro has a substantial public interest to provide regulations regarding the vending from vehicles that prevent health and safety hazards and preserve the public health, safety, and welfare related to such activities, especially for residents and visitors to the City of San Leandro; and
3. The primary purpose of the City's public streets and rights-of-way is to facilitate the free passage of vehicles, bicycles and pedestrians; and
4. The City of San Leandro intends to regulate mobile food vending in a manner that protects the public health, safety, and welfare, while also accommodating mobile food vending activity that promotes unique businesses and an active and social pedestrian environment. However, the unregulated use of the public streets and rights-of-way by mobile food vendors makes public streets and rights-of-way unsafe for vehicles, bicycles and

pedestrians. Therefore, the operations of mobile food vendors in City rights-of-way should be regulated; and

5. To protect the public health and safety, minimum separation distances between different mobile food vendors and specified land uses that have a high concentration of vehicular, pedestrian and commercial activity around and within the areas of such land uses and the adjacent public rights-of-way are necessary and in the public interest; and
6. Mobile food vending units should be subject to minimum separation distances from active full service restaurants, cafes, delicatessens, fast food establishments and community events because of the following characteristics of such land uses: High pedestrian and vehicular activity in and around restaurant land uses and restaurant parking lots; high concentrations of restaurant uses that service patrons during similar periods of time that do not exist at other commercial enterprises during the same periods of time, with limited on-street and off-street parking for the same uses; view obstacles to vehicular and pedestrian traffic flow caused by larger vehicles, such as mobile food vending units; limited parking requirements that facilitate safe vehicle and pedestrian traffic in and around mobile food vending units and restaurant land uses; limited on-street parking spaces around restaurant land uses, especially for larger vehicles such as mobile food vending units; and
7. Mobile food vending units are subject to minimum separation distances from schools because of the following characteristics: Mobile food vending units attract children to venture off school campuses, which poses a safety hazard related to unsupervised children running across streets and rights-of-way to a mobile food vending unit; mobile food vending units add to already existing congestion and traffic hazards around school zones particularly during the beginning and end of the school day; and
8. Subject to appropriate standards for the public safety, health and welfare, mobile food vending promotes the public interest by providing a needed service to locations in the City underserved by restaurant land uses, activating underutilized spaces, especially in the City's industrial areas, complementing private and public properties, promoting unique business opportunities and activities to residents and visitors, promoting arts and cultural exchange through the culinary arts, and promoting an attractive street environment.

CHAPTER 4-34 MOBILE FOOD VENDING

4-34-100 Definitions

(a) "Mobile food vendor" shall mean a person who sells, serves or offers for sale cooked or cold, prepackaged or prepared food for human consumption from a mobile food vending unit(s) parked or located on private property, public property or within the public right of way, including but not limited to streets and roads. A mobile food vendor may own and operate more than one mobile food vending unit. Mobile ice cream vendors shall be considered mobile food vendors except where otherwise stated and shall have additional requirements as specified pursuant to Section 4-34-500 of this Chapter.

(b) "Mobile food vending unit" or "food truck" shall mean any motorized or trailer vehicle, designed to be portable and not permanently attached to the ground from which only food and beverages are sold, served free or sampled, displayed or offered for sale. Ice cream trucks

shall be considered mobile food vending units except where otherwise stated and shall have additional requirements as specified pursuant to Section 4-34-500 of this Chapter.

(c) "Mobile ice cream vendor" shall mean any person engaged in the mobile food vending of frozen or refrigerated desserts, confections or novelties commonly known as ice cream, prepackaged candies, prepackaged snack foods or soft drinks.

(d) "Ice cream truck" shall mean any motor vehicle, or trailer attached to a motorized vehicle engaged in the curbside vending or sale of frozen or refrigerated desserts, confections, or novelties commonly known as ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks.

(e) "Pushcart" shall mean a piece of vending equipment which is intended to store all materials and merchandise related to vending activity, and is easily moved by a person.

(f) "Trailer" shall mean any non-motorized vehicle which is attached to a motorized vehicle.

(g) "Handcart" shall mean a cart drawn or pushed by hand.

(h) "Dolly" shall mean a platform on a roller or on wheels or coasters used to move objects.

4-34-150 Applicability and Exemptions

(a) Deliveries. This Chapter does not apply to any person engaged in delivering previously ordered food from or to any store including grocery stores, fixed place of business or residence.

(b) Community Events and Other Entitlements. Any mobile food vendor included in an event that is sponsored by the City or which has been authorized by the City through a special event, temporary use or outdoor facilities permit pursuant to the San Leandro Zoning Code, lease, agreement, or other entitlements issued by the City, may be subject to additional requirements pursuant to the terms or conditions of such authorization. A business license, current and valid general commercial and automobile liability insurance coverage, and an Alameda County Environmental Health Department Permit are required for each mobile food vending unit.

(c) Public, Private Property and Right of Way. This Chapter shall apply to mobile food vendors and mobile food vending units operating on public property, private property and in the public right-of-way unless otherwise permitted in Section 4-34-150(b) above.

4-34-200 Prohibitions

(a) No person shall vend food from or locate a pushcart, handcart or dolly within the City of San Leandro.

(b) No person shall sell, serve, or offer for sale cooked or cold, prepackaged or prepared food for human consumption from motorized or non-motorized vehicles other than those permitted by the Alameda County Environmental Health Department, California Health and Safety Code Section 114381 and in compliance with this Chapter.

(c) Mobile food vendors shall not conduct business operations on privately owned property within single-family zoning districts or developments unless otherwise permitted pursuant to this Chapter.

(d) No permit issued by the City for the purpose of mobile food vending may be transferred or assigned to another mobile food vendor or mobile vending unit.

4-34-250 Mobile Food Vending Permit Required; Application Requirements

(a) It shall be unlawful for any person to engage in the business of mobile food vending within the City of San Leandro without first obtaining a permit therefore as provided herein.

(b) All new and existing mobile food vendors shall obtain a Mobile Food Vending Permit for operation at any location within the City of San Leandro. A Mobile Food Vending Permit is required for each mobile food vending unit. All applicants must execute an application in writing on a form furnished by the Director of Finance. In order to obtain a Mobile Food Vending Permit, mobile food vendors must provide the following:

- (1) Proof of a valid Alameda County Environmental Health Department Permit.
- (2) A route map or written description showing the proposed route(s) and location(s) for each mobile food vending unit, which shall be updated annually at the time of business license renewal. Route and location changes before the annual business license renewal must be submitted by a mobile food vendor, which shall become an addendum to the original permit.
- (3) A copy of the mobile food vendor's valid California driver's license as well as a valid California driver's license for any person that will operate the mobile food vending unit.
- (4) Where applicable, a valid California Department of Motor Vehicles registration certificate.
- (5) Proof of the following insurance requirements maintained during the term of the permit.
 - (i) General Liability Insurance. \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
 - (ii) Automobile Liability: \$1,000,000 combined single limit per accident.
 - (iii) Indemnification and Hold Harmless. Mobile food vendors shall be responsible for all liability for personal injury or property damage which may result from their activities under the permit, or proximately caused by failure on their part to perform obligations under said permit. If any claim or such liability is made against the City, its officers, or employees, the mobile food vendor shall indemnify, defend and hold them and each of them harmless from any loss, liability, damage, claims, expenses or cost sustained by any person or property including any claim based on the active or passive negligence of the City, its officers, volunteers or employees, insofar as permitted by law.
 - (iv) The certificates of insurance, the endorsement naming the City as an

additional insured, and the coverage amounts must be verified by the Finance Department before the issuance of a Mobile Food Vending Permit.

(6) Any supplementary information requested by the City Manager or his designee as reasonably necessary to determine whether to approve or deny the Mobile Food Vending Permit application.

(7) Mobile food vendors and mobile ice cream vendors shall pay the prescribed Mobile Food Vending Permit fee approved by the City Council.

4-34-300 Operational Standards for Private, Public Property and Right of Way

(a) Each mobile food vending unit shall display a current business license and Alameda County Health Department permit in plain view of customers and any licensing agencies.

(b) Each mobile food vending unit shall maintain a valid Alameda County Health Department permit at all times. If the health permit expires, or is suspended or revoked, then all food sales shall cease until the health permit is reinstated.

(c) Mobile food vending units shall meet all state and federal requirements, including any related to licensing and registration.

(d) Mobile food vending units shall be entirely self-sufficient in regards to gas, electricity, water, and telecommunications, unless exceptions are granted pursuant to appropriate permits approved by City departments, including but not limited to, the Building and Safety Services Division and the Fire Department.

(e) Mobile food vending units shall be maintained in movable condition at all times.

(f) Mobile food vendors shall comply with the following:

(1) Have at least one clearly designated waste container within two (2) feet of the mobile vending unit while also maintaining a minimum four (4) foot clearance on sidewalks for pedestrian accessibility.

(2) No mobile food vendor shall throw, deposit, discharge, leave or permit to be thrown, deposited, discharged, or left, any fat, oil, grease, refuse, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, gutter, storm drain, inlet, catch basin, conduit or other drainage structure, or upon any public or private lot or land in the City. Mobile food vendors shall not dispose or allow the disposal of any generated waste, without written approval, in any public or private waste container other than the waste container under the control of the mobile food vendor.

(g) No part of the vehicle, furniture, or other equipment related to the vending operation may encroach onto the public sidewalk. Mobile food vendors are responsible for managing customer queuing, and ensuring pedestrian accessibility is maintained.

(h) Mobile food vendors shall not engage in alcohol sales or service unless permitted by the

California Department of Alcoholic Beverage Control.

(i) All mobile food vendors, mobile food vending units and anyone acting or working on his or her behalf shall comply with Section 4-1-1100 Noise Ordinance of this Code. Any exception shall be provided in accordance with Section 4-1-1120 Noise Ordinance Exemptions of this Code.

4-34-350 Additional Operational Standards for Private Property

(a) Property Owner Written Permission Required. Mobile food vendors shall have in their possession at all times the property owner's written permission to operate on the property. The written authorization shall describe the approved location and operation schedule.

(b) Access. Vendors shall not occupy any paved area required for loading, circulation or fire access.

(c) Furniture. Tables, chairs and shade structures may be allowed in conjunction with mobile food vending units if they occupy excess parking spaces or areas not required for loading, circulation or fire access, and are removed daily after use. Tables and chairs may be on turf or mulched areas provided that precautions are taken or improvements are installed to protect and maintain landscaped areas.

(d) Capacity. Up to three mobile food vending units may be on one parcel of property at a time as long as each individual mobile food vending unit is in compliance with the requirements of this Code. Additional mobile food vending units may be permitted through a City approved or sponsored special event, temporary use or outdoor facilities permit issued pursuant to the San Leandro Zoning Code provided that each individual mobile food vending unit complies with the requirements of this Code.

4-34-400 Hours of Operation

Mobile food vending on private property, City-owned property or rights-of-way shall not be conducted before seven (7) a.m. or after ten (10) p.m. unless otherwise permitted by a temporary use permit, outdoor facilities permit, or special event permit approved by the City, or other zoning entitlement or right.

4-34-450 Permitted Locations and Separations

Mobile food vending units shall operate in the zoning districts that permit such business activity pursuant to Part II of the Zoning Code and shall comply with the following restrictions:

(a) Mobile food vendors do not have any exclusive right to any location in the public streets, nor shall they be permitted a stationary location, unless otherwise provided, or be permitted to operate in any congested area where their operations might impede or inconvenience the public.

(b) Mobile food vending units shall not be located within any required vision triangles or within fifteen (15) feet of any curb return or driveway.

(c) In the right of way, mobile food vending units shall not park for more than five (5) hours in any particular location, nor shall any mobile food vending unit park in violation of any section of the San Leandro Municipal Code.

(d) Regardless of the length of time parked in the right of way, no mobile food vending unit shall park within five hundred (500) feet, as measured in any direction, of any area where it was previously parked at the beginning of the five (5) hour period, within any eighteen (18) hour period.

(e) Mobile food vending units shall be separated from the following land uses or activities:

(1) Three hundred (300) feet from the property line of any active full service restaurant, cafe, delicatessen or fast food (large and small) establishment.

(2) Three hundred (300) feet from any community event or other entitlement, authorized pursuant to Section 4-34-150(b), during the hours of the community event or other entitlement operation.

(3) Five hundred (500) feet from the property line of a primary or secondary school during school hours, and one-half (1/2) hour prior to the start of the school day and one-half (1/2) hour after the end of the school day.

(4) Notwithstanding the separations above, a mobile food vending unit may operate closer to the land uses or business activities specified in this subsection if the mobile food vendor obtains written consent from each applicable restaurant owner, public or private school, community event or entitlement holder indicating that he or she has no objections to the proposed mobile food vending unit operating within the minimum separation. The City may overrule such written consents if the City finds in writing that the close proximity of the mobile food vending unit(s) creates overriding adverse impacts on parking and traffic circulation within the applicable minimum distance separations.

(f) The separation shall be measured from the nearest point of the mobile food vending unit to the nearest point of the subject land use.

4-34-500 Mobile Ice Cream Vendor Supplemental Requirements

(a) Mobile ice cream vendors shall comply with the provisions of this Chapter and the following supplemental requirements. If there is a conflict between any other regulations applying to a mobile food vending unit, the requirements in this Article shall take precedence to the requirements applicable to mobile ice cream vendors or trucks:

(1) The fingerprints of the mobile ice cream vendor and any employees shall be provided in the initial application for a Mobile Food Vending Permit, for renewals, and every even numbered year thereafter;

(2) A statement shall be provided in the initial application for a Mobile Food Vending Permit, for renewals, and every even numbered year thereafter, as to whether or not

the mobile ice cream vendor or any employees have been convicted of any crime, including a violation of any municipal ordinance, the nature of the offense, and the punishment or penalty imposed; and

(3) No mobile ice cream vendor shall dispense any item from an ice cream truck parked or stopped within five hundred (500) feet of the property line of a primary or secondary school anytime during school hours, one-half (1/2) hour prior to the start of the school day and one-half (1/2) hour after the end of the school day.

(4) A Mobile Food Vending Permit may be denied or revoked if the mobile ice cream vendor or any employees have been convicted of any offense involving conduct which requires registration pursuant to Section 290 of the California Penal Code (the California Sex Offender Registration Act) or convicted of an offense outside the State of California that would have required registration pursuant to the California Sex Offender Registration Act if committed within the State of California.

4-34-550 Inspections

(a) Mobile food vendors and their respective employees shall provide licensing and inspection agencies with a copy of a valid San Leandro Mobile Food Vending permit/business license and Alameda County Environmental Health Department permit upon request. Mobile food vendors shall allow representatives of the City to enter and inspect their mobile food vending units any time the mobile food vending unit is operating within the City for the purpose of verifying compliance with this Code.

4-34-600 Suspension, Revocation, Appeals and Procedure

(a) Any Mobile Food Vending Permit may be suspended by the City Manager, or his or her designee, for any of the following reasons:

(1) False or misleading information supplied by the mobile food vendor upon which the Mobile Food Vending Permit was issued.

(2) A finding that the issuance of the Mobile Food Vending Permit or continued operation under the Mobile Food Vending Permit presents a threat to public health or safety.

(b) The process and procedures for revocation of Mobile Food Vending Permits issued pursuant to this Chapter, and appeals of Mobile Food Vending Permits that are revoked, shall follow the same procedures as set forth in Article 4 of Chapter 2-2 of this Code.

4-34-650 Violation and Enforcement

(a) Removal and Relocation. The City Manager, or his or her designee, may order the removal or relocation of a mobile food vending unit on public property, private property or rights-of-way whenever it appears that the activities are having an adverse impact on the use of the property, neighboring properties or roadways, including blocking the view of a business frontage or main entrance to the business from a roadway, traffic, circulation, parking availability, noise, trash, or other reasons related to public health or safety.

(b) Violations. Any mobile food vending unit that is located, operated, or maintained in a manner that impedes vehicular and pedestrian circulation or that creates a hazard to life or property, or any condition or act in violation of this Chapter or any provision of applicable state or federal law, is expressly deemed and declared to be a public nuisance, and such violation may be abated by any duly authorized police officer of the City of San Leandro in any of the following manners:

(1) Citations - Violations: Pursuant to Chapter 1-12 of this Code.

(2) Authority to Tow: Removing or causing removal of any mobile food vending unit from any street within the City of San Leandro when such mobile food vending unit is operating in violation of this Chapter. The vehicle shall be removed to a tow yard.

(i) Payment of Charges: The owner or person having the right to possession of any mobile food vending unit removed pursuant to this Chapter shall pay all such removal, towing and storage charges before he, or she shall be entitled to regain possession of such vehicle.

(ii) Food Spoilage and Property Loss: The City shall not be responsible for food spoilage or property loss that results from the removal, towing and storage of a mobile food vending unit pursuant to this Chapter.

(3) Suspension: Any Mobile Food Vending Permit issued under this Chapter may be suspended pending hearing and for a period not exceeding ten (10) days whenever any duly authorized police officer of the City of San Leandro has issued a notice of hearing for revocation of permit. Any such suspension shall terminate upon its expiration date or upon the rendering of a decision on the question of revocation, whichever shall occur first. No mobile food vending unit shall operate in the City of San Leandro under a Mobile Food Vending Permit during the time the permit is suspended pending the hearing.

(4) Violations may also result in revocation of applicant's business license pursuant to Section 2-2-440 of this Code.

SECTION 2. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 3. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to

adoption.



City of San Leandro

Meeting Date: June 2, 2014

Ordinance

File Number: 14-210

Agenda Section: CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: ORDINANCE Amending Title 4, Chapter 4-5 of the San Leandro Municipal Code Relating to Peddlers, Solicitors, and Itinerant Merchants (provides for consistency with state law pertaining to public street vending)

The City Council of the City of San Leandro does **ORDAIN** as follows:

SECTION 1. PURPOSE. To make the current ordinance consistent with state law pertaining to public street vending and to make necessary amendments that are consistent with a proposed Mobile Food Vending ordinance.

SECTION 2. AMENDMENT OF CODE. Title 4, Chapter 4-5 of the San Leandro Municipal Code is hereby amended as follows:

Words that appear with a strike-through (~~strike through~~) shall be deleted from the Code by the City Clerk. All other text, including any added to this amendment, shall be published by the City Clerk as it appears herein, and where applicable, replace in its entirety the text that currently exists in the Code.

CHAPTER 4-5 PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS

ARTICLE 1. DEFINITIONS

4-5-100 PERSON.

“Person” shall mean any natural person, corporation, association, co-partnership, or any other organization however organized.

4-5-105 PEDDLER.

“Peddler” shall mean any person traveling by foot, wagon, automobile, truck, van, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions, offering and exposing the same for sale, or

making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automobile, truck, van, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Chapter shall be deemed a peddler subject to the provisions of this Chapter.

4-5-110 SOLICITOR.

“Solicitor” shall mean any person traveling either by foot, wagon, automobile, truck, van or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sales of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, or whose activities may, in any way, result in such sale or the furnishing of such services, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sale or not, provided that such definitions shall include any person who, for himself, or for another firm or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, hotel room, lodging house, apartment, shop, or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

4-5-115 ITINERANT MERCHANT.

“Itinerant merchant” shall mean any person, firm, or corporation, whether as owner, agency, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise, meats, fish, vegetables, fruits or other food products, within the City of San Leandro, and who, in furtherance of such purpose, hires, leases, uses or occupies any nonresidential building, structure, shop, or room in any hotel, motel, auto court, within the City, for the exhibition and sale of such goods, wares and merchandise provided that such definition shall not be construed to include any person, firm or corporation who while occupying such location does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery, and further shall not include sales of pumpkins or Christmas trees. For purposes of this Chapter 4-5, the term “temporary business” shall mean a lawfully permitted business conducted for less than seven (7) consecutive days in any calendar year. Any business conducted for more than seven consecutive days shall obtain a business license in accordance with the provisions of Chapter 2-2 of the San Leandro Municipal Code.

4-5-120 PUSH CART.

“Pushcart” shall mean a piece of vending equipment which is intended to store all materials and merchandise related to vending activity, and is easily moved by a person.

~~4-5-125 ICE CREAM TRUCK.~~

~~“Ice cream truck” shall mean any motor vehicle, as the term is defined in the California Vehicle Code, engaged in the curbside vending or sale of frozen or refrigerated desserts, confections or novelties commonly known as ice cream, prepackaged candies, prepackaged snack foods or soft drinks. Reserved.~~

4-5-130 TRAILER.

“Trailer” shall mean any non-motorized vehicle which is attached to a motorized vehicle.

~~4-5-135 ICE CREAM PEDDLER.~~

~~“Ice cream peddler” shall mean any person engaged in the vending or sale of frozen or refrigerated desserts, confections or novelties commonly known as ice cream, prepackaged candies, prepackaged snack foods or soft drinks. Reserved.~~

4-5-140 HANDCART.

“Handcart” shall mean a cart drawn or pushed by hand.

4-5-145 DOLLY.

“Dolly” shall mean a platform on a roller or on wheels or coasters used to move objects.

ARTICLE 2. PERMIT

4-5-200 PERMIT.

It shall be unlawful for any person to engage in the business of peddler, solicitor or itinerant merchant within the City of San Leandro without first obtaining a permit therefore as provided herein.

This section does not apply to events which require a special event permit.

4-5-205 APPLICATION.

Applicants for permits under this Chapter must file with the Finance Director a sworn application in writing on a form furnished by the Finance Director which shall give the following information:

- (a) Name and description of the applicant;
- (b) Permanent home address of applicant;
- (c) A brief description of the goods to be sold;
- (d) If employed, the name and address of the employer, and the capacity in which the applicant is employed;
- (e) If a vehicle is to be used, a description of the same together with license number and other means of identification;
- (f) For peddlers and solicitors only, the fingerprints of the applicant shall be provided for the initial application, and for renewals, every even numbered year thereafter;
- (g) A statement as to whether or not the applicant has been convicted of any crime, including violation of any municipal ordinance, the nature of the offense and the punishment or penalty imposed; and
- (h) For itinerant merchants only, a written statement signed by the owner or his authorized agent, consenting to applicant’s use of the subject property.

4-5-210 APPLICATION AND RENEWAL FEE.

The application and any renewal application shall be accompanied by a fee in such amount or amounts, as designated by the City Council, to cover administrative costs. No part of such fees shall be refunded whether such permit is issued or not.

4-5-215 VERIFICATION OF APPLICATION.

The applicant shall sign a declaration under penalty of perjury that the information contained or submitted with the application is true.

4-5-220 GROUNDS FOR DENIAL OF PERMIT.

The Finance Director shall deny the permit if he finds:

- (a) That any information contained in or submitted with the application is not true; or
- (b) That the activity as proposed by the applicant would not comply with any provision of this Chapter or any other ordinance or regulation of the City of San Leandro or any statute or regulation of the State of California or of the United States; or
- (c) That the applicant has been convicted of any of the following offenses or convicted of an offense outside the State of California that would have constituted any of the following offenses if committed within the State of California:
 - (1) An offense involving the use of force or violence upon the person of another that amounts to a felony;
 - (2) Burglary (P.C. § 459);
 - (3) Robbery (P.C. § 211);
 - (4) Fraud, misrepresentation (P.C. §§ 351, 531, 532); or
- (d) That, for any other reason, the activity as proposed would be detrimental to the public peace, health, morals or welfare.

4-5-225 ISSUANCE OR DENIAL OF PERMIT.

The Finance Director shall, within twenty (20) days after receipt of an application complying with the provisions of this Chapter, issue a permit or deliver to the applicant, personally or by mail, written notice of denial of the permit, setting forth the reason or reasons therefor, in accordance with the provisions of Section 4-5-220. If the permit is issued, the permit shall contain the signature of the issuing officer and shall show the name and address of the issuing officer and shall show the name and address of the permittee, the class of permit issued, the kind of goods to be sold thereunder, the date of issuance, and the length of time (not to exceed one year) the same shall be operative as well as the license number and other identifying description of any vehicle, if any, used in such business. The Finance Director shall keep a permanent record of all permits issued. Permits shall be renewed annually upon payment of the renewal fee and business license fee. If the permit is for peddling at the Shoreline Recreation Area, the permit shall indicate the area or areas where the permittee may peddle.

4-5-230 BADGES.

The Finance Director shall issue to each permittee at the time of delivery of his permit such identification badges as deemed necessary by the Finance Director. Badges (peddlers and solicitors only) shall be carried and shall be exhibited to any police officer or other authorized city official on demand and to any person upon whom such peddler or solicitor shall call.

4-5-235 TRANSFER.

No identification badge issued under the provisions of this Chapter shall be used or worn at any time by any person other than the one to whom it was issued.

4-5-240 REVOCATION OF PERMIT.

The Finance Director shall revoke a permit issued pursuant to the provisions of this Chapter if:

- (a) He subsequently determines that facts exist which, under the provisions of Section 4-5-220 would have required denial of the permit at the time of application; or
- (b) Subsequent occurrences create a situation which, under the provisions of Section 4-5-220 would have required denial of the permit had the situation existed at the time of application; or

- (c) Fraud, misrepresentation, or false statement is contained in the application; or
- (d) Fraud, misrepresentation, or false statement was made in the course of carrying on the business of peddler, solicitor or itinerant merchant; or
- (e) Any violation of this Chapter or of the terms and conditions of the permit; or
- (f) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or constitute a threat to the health, safety or general welfare of the public.

4-5-245 HEARING.

Notice of the hearing before the Finance Director for revocation of a permit shall be given in writing, setting forth specifically the basis for revocation and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address at least five (5) days prior to the date set for hearing.

4-5-250 APPEAL.

Any person who has been denied a permit pursuant to Section 4-5-225, or has had his or her permit revoked pursuant to Section 4-5-240, may appeal that decision to the City Manager.

4-5-255 LIABILITY FOR DAMAGES-PUBLIC LIABILITY INSURANCE.

(a) If a permit is for peddling from a conveyance located from the public right-of-way, it shall not be issued until the applicant provides evidence to the satisfaction of the Finance Director of public liability and property damage insurance in such form and amount as may be required by the Finance Director to protect the City, its officials, directors, officers, employees and agents from claims which may arise from permittee's activities under the permit. Such insurance shall be maintained during the term of the permit.

(b) Permittee shall be responsible for all liability for personal injury or property damage which may result from permittee's activities under the permit, or proximately caused by failure on permittee's part to perform his obligations under said permit. If any claim or such liability is made against the City, its officers, or employees, permittee shall defend, indemnify and hold them and each of them, harmless from such claim including any claim based on the active or passive negligence of the City, its officers or employees, insofar as permitted by law.

ARTICLE 3. EXEMPTIONS

4-5-300 REGULAR CONTACT.

Persons regularly calling on persons, firms or corporations shall be exempt from the provisions of this Chapter.

4-5-305 SHORELINE RECREATION AREA (MARINA)

No person engaged in the business of peddler, or itinerant merchant shall conduct business on public or private property within the Shoreline Recreation Area, ~~also known as the San Leandro Marina, unless such person has a permit issued pursuant to this Chapter which specifically authorizes the peddler or itinerant merchant in the Shoreline Recreation Area or any part thereof. The only permit that may be issued for the business of peddler, within the San Leandro Marina is one limited to the business of ice cream peddler. Solicitation is prohibited in the Shoreline Recreation Area.~~

4-5-310 NEWSPAPERS.

The provisions of this Chapter shall not apply to the solicitation of subscriptions or advertising for, or sale of, newspapers, magazines or other periodicals published for the dissemination of news and intelligence of a general character and printed or published at regular intervals.

4-5-315 MOBILE FOOD VENDORS

The provisions of this chapter shall not apply to Mobile Food Vending as defined in Chapter 4-34 of this Code.

ARTICLE 4. BUSINESS LICENSE FEES

4-5-400 BUSINESS LICENSE FEE.

Every person carrying on the business of peddler, solicitor or itinerant merchant who is not exempted from the provisions of this Chapter shall pay as a license fee the sum prescribed in Chapter 2 of Title II of this Code in addition to the application fee provided in this Chapter .

ARTICLE 5. GENERAL

4-5-500 LOUD NOISES AND SPEAKING DEVICES.

No permittee or anyone acting in his behalf shall shout, make any outcry, blow a horn, ring a bell, or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks, or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys, or parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell.

4-5-505 USE OF STREETS.

(a) No peddler shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location (unless otherwise provided) or be permitted to operate in any congested area where his operations might impede or inconvenience the public.

(b) No peddler shall stand or park any motorized vehicle or trailer for more than ~~two (2)~~ **five (5)** hours in any particular location, nor shall any peddler stand or park any motorized vehicle or trailer in violation of any section of the San Leandro Municipal Code.

Regardless of the length of time parked at any particular location, no peddler shall stand or park any motorized vehicle or trailer within five hundred (500) feet, as measured in any direction, of any area where he or she previously parked at the beginning of the ~~two (2)~~ **five (5)** hour period, until twenty-four (24) hours have elapsed from the end of said two hour period.

(c) No peddler shall stand or park any motorized vehicle or trailer within fifteen (15) feet of any curb return, driveway or fire hydrant.

4-5-510 INTERSTATE COMMERCE.

None of the fees provided for by this Chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a fee is believed by a solicitor to place an undue burden upon such commerce, he may apply to the Finance Director for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six (6) months after payment of the prescribed fee. The applicant shall, by affidavit and supporting testimony, show his

method of business and the gross volume or estimated gross volume of business and such other information as the Finance Director may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Finance Director shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee is unfair, unreasonable, or discriminatory as to the applicant's business and shall fix as the business license fee for the applicant, an amount that is fair, reasonable, and non-discriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. Any person aggrieved by the action of the Finance Director under this section may appeal to the City Manager.

4-5-515 ITINERANT MERCHANT DEPOSIT.

Before any permit may be issued to an itinerant merchant, the applicant must deposit with the Finance Director the sum of Fifty Dollars (\$50.00) in lawful money of the United States, which deposit shall be retained as a guaranty that the premises occupied by such applicant shall be left in a clean condition. Upon presentation of a certificate to be issued by the Building Inspector that said premises are clean, such deposit may be refunded to applicant, otherwise, the same shall be retained by the City and expended to clean said premises.

4-5-520 PEDDLERS, SOLICITORS-RESIDENTIAL DISTRICTS-HOURS PERMITTED-NOTIFICATION.

(a) Except as allowed by subsection (b), it shall be unlawful for any person to engage in the business of peddler, solicitor or itinerant merchant within a residential zoning district, as described in the San Leandro Zoning Code, except during the hours of ~~8~~7:00 a.m., to ~~8~~10:00 p.m., on each day.

(b) Where a person has an appointment with the occupants of a residence, that person may engage in the business of peddler, solicitor or itinerant merchant at that residence.

(c) Every permit issued for the purpose of engaging in the business of peddler, solicitor or itinerant merchant shall contain the language set forth in subsections (a) and (b), above, and shall also contain a map depicting the residential zoning districts of the City:

4-5-525 PUSHCARTS PROHIBITED.

No person shall vend from or locate a pushcart, handcart or dolly within the City of San Leandro.

~~4-5-530 ICE CREAM TRUCKS PROHIBITED WITHIN FIVE HUNDRED (500) FEET OF PRIMARY OR SECONDARY SCHOOLS.~~

~~No person shall dispense any item from an ice cream truck parked or stopped within five hundred (500) feet of the property line of a primary or secondary school during the school day, one-half (1/2) hour prior to the start of the school day and one-half (1/2) hour following student dismissal at the end of the school day. Reserved.~~

4-5-535 PEDDLING FROM A VEHICLE OR TRAILER.

(a) Any and all vehicles and trailers used for the business of peddling shall be legally parked and capable of being self-propelled at all times. Peddlers engaged in the business of peddling from a vehicle or trailer may peddle their wares within the public rights-of-way on City streets, but shall not have exclusive rights to any particular location.

(b) No peddler shall dispense or sell any ~~food or other~~ type of merchandise within two (2)

blocks or six hundred (600) feet, whichever is greater, of an established business which sells the same type of ~~food or other~~ merchandise as the peddler.

4-5-540 REFUSE COLLECTION.

Prior to leaving any location from which a peddler has engaged in the activity of peddling, peddlers shall pick up, remove and properly dispose of all trash or refuse which consists of materials originally dispensed by the peddler, including any packages or containers, or parts thereof, used with or for dispensing of such ~~food or~~ goods.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 4. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.



City of San Leandro

Meeting Date: June 2, 2014

Resolution - Council

File Number: 14-200 **Agenda Section:** CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: Cynthia Battenberg
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION Approving a Reduction of the Business License Tax for Mobile Food Vendors (waives the peddler/solicitor unit fee of \$36.50 per employee)

WHEREAS, the City Council of the City of San Leandro has stated goals of fiscal sustainability and program development to advance the City's economic position and support innovation; and

WHEREAS, the City Council of the City of San Leandro desires to modernize the regulations and associated fees related to operating a mobile food vending business;

WHEREAS, the City Council of the City of San Leandro wishes to proactively expand options for food and dining in San Leandro;

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That a Mobile Food Vendor shall pay only one (1) Peddler/Solicitor Business License Tax for each mobile food vending unit as defined in Title 2, Chapter 2-2, Section 2-2-500 of the San Leandro Municipal Code; and

That a waiver of the peddler/solicitor unit fee, presently \$36.50 per each employee for each mobile food vending business, is hereby authorized; and

That each mobile food vending business shall pay the annual base fee, presently \$121.60, for the peddler/solicitor business license tax; and

That the Business License Tax reduction shall apply to all mobile food vending businesses, as defined in Title 4, Chapter 4-34 of the San Leandro Municipal Code, in San Leandro and physically located in the City as soon as can be implemented; and

That the City Manager is authorized to take whatever action is necessary to effect this

resolution, including but not limited to any or all of the program parameters described in the accompanying staff report.