



**CITY OF SALINAS
COUNCIL STAFF REPORT**

DATE: SEPTEMBER 21, 2021

DEPARTMENT: PUBLIC WORKS AND COMMUNITY DEVELOPMENT

**FROM: DAVID JACOBS, DIRECTOR
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**TITLE: AN ORDINANCE AMENDMENT TO ARTICLE XVI OF
CHAPTER 20 AND AN ORDINANCE AMENDING CHAPTER
37 (ZONING CODE) OF THE SALINAS MUNICIPAL CODE –
SECOND READING**

RECOMMENDED MOTION:

Motion to:

1. Find the project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15305 and 15061(b)(3);
2. Adopt an Ordinance amending Chapter 37 of the Salinas Municipal Code (Zoning Code) to allow consideration of Food Trucks operating on private property subject to a Conditional Use Permit (CUP). (ZCA2021-004); and
3. Adopt an Ordinance, including errata, amending Article XVI of Chapter 20 of the Salinas Municipal Code updating the regulations governing food trucks, ice cream trucks, nonmotorized pushcarts and street vendors (Vendor Ordinance).

If the Vendor Ordinance is adopted as outlined, a motion to:

1. Approve a resolution authorizing the 2021-2022 General Fund Budget augmentation of \$164,100 for Vendor Ordinance implementation and enforcement costs including
 - a. \$62,400 for the establishment of 52 “designated locations” for food trucks;
 - b. \$31,200 to cover code enforcement overtime dedicated to vendor enforcement for the first six (6) months;
 - c. \$70,500 for new Code Enforcement Officer II position for dedicated vendor enforcement (portion of FY 2021-22); anddirecting that on-going annual program cost of \$141,000 for a for new Code Enforcement Officer II be incorporated into subsequent General Fund Budgets;
2. Approve a resolution establishing the 52 designated locations referenced in the Vendor

- Ordinance; and
3. Direct staff to conduct a study of vendor permit fees to ensure program costs are covered.

RECOMMENDATION:

It is recommended that the City Council:

1. Find the project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15305 and 15061(b)(3);
2. Adopt an Ordinance amending Chapter 37 of the Salinas Municipal Code (Zoning Code) to allow consideration of Food Trucks operating on private property subject to a Conditional Use Permit (CUP). (ZCA2021-004); and
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2. Adopt a resolution establishing the 52 designated locations referenced in the Vendor Ordinance; and
3. Direct staff to conduct a study of vendor permit fees to ensure program costs are covered.

EXECUTIVE SUMMARY:

This staff report is a supplement to the report provided for the August 24th meeting which was continued to September 14th. Both reports should be reviewed together for a complete overview, analysis and findings of proposed Vendor Ordinance and ZCA Ordinance Amendments.

Vendor Ordinance and ZCA Ordinance Amendments are being presented together as a comprehensive vending program to manage the anticipated increase in the number of vending permits resulting from the required removal of the current vendor permit cap of thirty-two (32). While presented together, the approval of each proposed Ordinance Amendment is to be taken as a separate action. The City Council could therefore choose to:

- 1) approve both Ordinance Amendments; or
- 2) approve one Ordinance Amendment and not the other; or
- 3) not approve either of the Ordinance Amendments.

It is staff’s recommendation that the Council approve both Ordinance Amendments and associated implementing resolutions as a comprehensive vending program. The current cap of thirty-two (32)

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food truck permits must be removed. If the proposed Ordinance Amendments are not approved, staff would still be required to return with an amendment that removes the cap. Upon removal of the cap, an unlimited number of food trucks permits would then operate only in the public right of way under current Ordinance regulations and conditions, which provide limited controls and no funding for enforcement to address the anticipated increase in permits based on the current waitlist of over 300.

The proposed Vendor Ordinance Amendments remove the cap on the number of food truck permits and establishes three food truck vending options (designated location, roaming and private property) with regulations to ensure community health and safety. In addition, supporting resolutions, authorize the funding need to implement an effective enforcement program. Should the Council choose not to approve the Vendor Ordinance Amendment, it is recommended that Council approve the ZCA Ordinance Amendment to allow for vending on private property through a Conditional Use Permit.

BACKGROUND:

This Second Reading of proposed Ordinance Amendments was continued from the August 10th, 24th, and September 14th meetings. The continuation of the Second Reading of the proposed Ordinance Amendments has provided staff additional time to respond to City Council and community stakeholder questions and concerns. Additional outreach, research and analysis, and refinement of recommended amendments and implementation strategy are outlined in both the August 24th and September 14th reports. Both reports should be reviewed together for a complete overview, analysis and findings of proposed Vendor Ordinance and ZCA Ordinance Amendments.

DISCUSSION:

Supplemental Information

Designated Locations: number and site selection:

A number of comments have risen questioning the reasoning for the proposed 52 food truck designated locations. Why fifty-two? Why not unlimited? Why those locations?

The City of Salinas cannot cap the number of food truck vendor permits. Staff was directed to modify the current Ordinance to remove the limit established in November 2005. The current Ordinance allows thirty-two catering vehicles (food trucks) to operate within the city at either fixed locations or mobile with two separate shifts. The fixed locations are locations selected by the food vendor which meet the setbacks and restrictions established by the city code. Currently, only two permitted food trucks have elected to operate as mobile vendors. Of the food trucks with fixed locations, half have fixed locations within the Alisal area. The biggest concern received from community stakeholders was that “everyone wants to sell in the Alisal”. In response to this concern, staff focused on establishing a more equitable distribution of fixed vending locations throughout the city, increasing the designated locations to fifty-two (52), an increase of only twenty (20) additional vendors at fixed locations. By establishing the designated locations, staff was able to increase vending opportunities throughout the city and adjacent to parks while minimizing the impacts to a district and the city as whole. Finally, by allowing roaming and private property vending as a separate food truck category, we are able to allow an unlimited number of food trucks to operate, eliminating any cap to the number of total food trucks allowed. Tables 1 and 2 below provide an overview of the difference between the current ordinance and the proposed Ordinance

Amendments.

Table 1: Food Truck Vendor Number of Food Trucks Allowed

Type of Food Truck Vendor	Current Ordinance	Proposed Ordinance
Designated Location	32	52
Roaming	Included with the 32	Unlimited
Private Property	Not Allowed	Unlimited

Table 2: Food Truck Vendor Hours of Operation

Type of Food Truck Vendor	Current Ordinance	Proposed Ordinance
Designated Location	<ul style="list-style-type: none">• Morning (3am – 6pm)• Evening (3pm – 3am)	10am – 3am
Roaming	<ul style="list-style-type: none">• Morning (3am – 6pm)• Evening (3pm – 3am)	8am – 8pm
Private Property	Not Allowed	Sun-Thu 9am – 10pm Fri-Sat and holidays 9am – Midnight (12am)

The possible impacts of an unlimited number of food trucks must be considered. From a roadway safety perspective, staff analyzed the collision data presented in the Vision Zero Plan as it relates to the current fixed locations from which vendors operate. This data is consistent with the findings and recommendations made in the Vision Zero Plan which proposes to reduce obstructions along High Collision Corridors and High Collision Intersections in an effort to reduce fatal and serious collisions. Relocating food trucks away from High Collision Corridors and High Collision Intersection would remove the obstructions caused by these large vehicles. Attachment 5 to this report provides collision data at current vending locations. Given the anticipated substantial increase in the number of food truck permits, proposed Ordinance Amendments aim to maintain the safety of the community through restrictions that regulate the location from and how food trucks can operate. Attachment 6 of this report lists the specific restrictions.

Analysis of Impact to Brick-and Mortar Restaurants:

On August 16, 2021, SUBA submitted a letter requesting that the City Council consider preparing a feasibility study before proceeding with the amendments to the Vendor Ordinance. The purpose of this feasibility study would be to provide the Council with information to evaluate the differences between the two brick-and-mortar and food truck vendors and potential financial impact resulting from the Ordinance Amendments. A copy of this letter is provided as an Attachment 7 to this staff report. While the City Council could direct staff to undertake the requested analysis, it is not required or recommended as it cannot be a determining factor in its consideration of approval of the proposed Ordinance Amendments.

In the August 24th staff report, staff analyzed and provided ranges of startup costs for both brick-and-mortar restaurants and food trucks. Based on the research it is evident that brick-and-mortar restaurants do have a higher-cost threshold to start and operate a business than a food truck. For this reason, many entrepreneurs enter the food industry through mobile vending, which in general, has a lower cost to start and operate.

A comparison of the two business models is complicated by the fact that in many cases a business may choose to change or combine business models. A food truck business may evolve into a brick-and-mortar restaurant but choose to continue to operate an associated food truck. The reverse can also occur; a brick-and-mortar restaurant can decide to also operate a food truck to expand its business. A third business model is a food truck and brick-and-mortar restaurant partnering together, the restaurant (bar/pub) serving alcohol and providing seating, with food provided by the food truck, or even operating at the same location, but with different hours. Table 3 below lists Salinas brick-and-mortar restaurants that also operate a food truck. In two instances, business owners started operating a food truck, evolved to establish brick-and-mortar restaurant, and maintained their mobile business. Table 4 below is a list of brick-and-mortar businesses that have expressed interest in expanding their operations to include a food truck but are unable to do so under the current Vendor Ordinance.

Table 3: Brick-and-Mortar Restaurants with a Food Truck Vendor Permit

Brick-and-Mortar Restaurants with a Food Truck Vendor Permit		
<i>Business Name:</i>	<i># Food Trucks:</i>	<i># Brick-and-Mortar:</i>
Tacos Pacheco	3	32 San Miguel, Salinas,
Tacos el Jaliscience	1	441 N Sanborn Rd, Salinas
El Volcan	2	1906 N Main ST; working on 2 nd location @ 723 E Alisal.
El Grullense	2	976 Acosta Plaza, Salinas
Mariscos El Kora	1	1565 N Sanborn Rd, Salinas Ca
El Kiosko #2	1	1502 Constitution Blvd., Salinas CA

Table 4: Brick-and-Mortar Restaurants interested in Food Truck Vendor Permit

Brick-and-Mortar Restaurants with a Food Truck waiting for a Vendor Permit		
<i>Business Name:</i>	<i># Food Trucks:</i>	<i># Brick-and-Mortar:</i>
Tacos Don Beto	1	42 W. Gabilan ST, Salinas, CA
Stonies	1	1365 S Main St, Salinas, CA
Choke Coach	1	40 Mortensen Ave, Salinas, CA
Los Dos Potrillos		301 E Alisal St, Salinas, CA
Tacos el Pariente y Mariscos	1	100 Williams St, Salinas, CA
El Rey Market	1	323 Williams RD & 1159 N Sanborn Rd, Salinas, CA
Poke Lab	1	475 Alvarado St, Monterey, CA

The Village Restaurant	1	1490 Constitution Blvd, Salinas, CA
Tacos Acambaro	1	631 E Alvin Dr. K2 , CA

Enforcement Strategy

Staffs' proposed approach to enforcement and program implementation is outlined in the August 24th staff report. This report provides supplemental information explaining the rationale for recommending a Code Enforcement Officer II (CEO II) for dedicated enforcement versus a Code Enforcement Officer I (CEO I).

Effective enforcement requires a higher level of ability and skill including, but not limited to the

1. Need for a knowledgeable, authoritative, and consistent figure that is able to work independently with limited supervision,
2. Ability to build working relationships with vendors, SPD, Monterey County Health Department, Monterey County Environmental Health, and other agencies and make court appearances; and
3. Experience with balanced application of education and enforcement and interpreting and applying of department policies and procedures to a variety of unique situations; the ability to make educated judgement calls out in the field with discretion.

The above skills and abilities align with the CEO II position, which is more experienced and can work independently in the field. A CEO I would require supervision in the field. Given that this position would work evenings, weekend and holidays, a CEO II would need to be paid overtime, or a percentage of the Code Enforcement Manager would need to account for the provision of supervision and direction to the CEO I. Table 5 below illustrates the cost saving of hiring a CEO II versus a CEO I.

Table 5: Code Enforcement Officer Cost Comparison

CODE ENFORCEMENT OFFICER COST COMPARISON			
OPTION 1	OPTION 2		OPTION 3
CEO II \$141,000	CEO I	\$129,000.00	CEO I \$ 129,000.00
	CEO II (OT Pay) *	\$163,000.00	CEM (est. 77.5% of time) ** \$ 139,000.00
	TOTAL COST	\$292,000.00	TOTAL COST \$268,000.00

*CEO II will supervise over CEO I and will work approx. 31 hours of OT per week to coincide with CEO I flexible schedule.

**Code Enforcement Manager to dedicate 77.5% of their regular time (31 hours) on providing supervision and direction to the CEO I.

Additional Proposed Changes to Article XVI Vendor Ordinance Amendment

Upon further review of the proposed Ordinance Amendments, staff determined that proposed permit fee reductions for ice cream trucks and fresh produce vendors be removed as permit fee adjustments should be determined through a fee study to ensure the amount charged is appropriate and covers the City's program cost including permit processing. This change is in addition to the

modification to *Article XVI Vendor 20-16.160. – Penalties* in the August 24th staff report to align administrative citation fines for both the non-motorized cart and ice cream truck without permit and the vendors with permits. An Errata page with all proposed changes is provided as an Attachment 1.

XVI Vendor Ordinance Amendment and Zoning Code Amendment Recommendations

While the Vendor Ordinance and ZCA Ordinance Amendments are being presented together as both Ordinance Amendments address vending, approval of each proposed Ordinance Amendment is to be taken as a separate action. The City Council could therefore choose to:

- 1) approve both Ordinance Amendments; or
- 2) approve one Ordinance Amendment and not the other; or
- 3) not approve either of the Ordinance Amendments.

It is staff's recommendation that the Council approve both Ordinance Amendments and associated implementing resolutions as a comprehensive vending program. The current cap of thirty-two (32) food truck permits must be removed. If the proposed Ordinance Amendments are not approved, staff would still be required to return with an amendment that removes the cap. Upon removal of the cap, an unlimited number of food trucks permits would then operate only in the public right of way under current Ordinance regulations and conditions, which provide limited controls and no funding for enforcement to address the anticipated increase in permits based on the current waitlist of over 300.

The proposed Vendor Ordinance Amendments remove the cap on the number of food truck permits and establishes three food truck vending options (designated location, roaming and private property) with regulations to ensure community health and safety. In addition, supporting resolutions, authorize the funding need to implement an effective enforcement program. Should the Council choose not to approve the Vendor Ordinance Amendment, it is recommended that Council approve the ZCA Ordinance Amendment to allow for vending on private property through a Conditional Use Permit.

FINDINGS:

There is no change to findings presented at the First Reading. Findings in support of the proposed Ordinance Amendments are incorporated in the draft Ordinances and the August 24, 2021 and June 22, 2022 staff reports attached to this staff report.

CEQA CONSIDERATION:

There is no change to the CEQA findings provided in the June 22, 2021 and August 24, 2021 staff reports. The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). The proposed Ordinance Amendments are categorically exempt (Class 5) from further environmental analysis per CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations).

STRATEGIC PLAN INITIATIVE:

This staff report and recommendations align with the following City Council strategic plan initiatives:

- Investment Strategies/Risk Management
- New Revenue
- Public Safety

DEPARTMENTAL COORDINATION

Public Works Department (Development Engineering Division) and the Community Development Department (Advanced Planning and Project Implementation Division) collaborated on the preparation of this supplemental report in coordination with the City Attorney and Finance Director.

FISCAL AND SUSTAINABILITY IMPACT:

If the Vendor Ordinance Amendment is approved, implementation requires budgetary and staffing resources. Based on the current waitlist, a high volume of vendor applicants is anticipated. Without a permit cap, this could result the processing of hundreds of permits. In addition to administration, enforcement is vital to the successful implementation of the Vendor Program. Without adequate enforcement, there is a high likelihood of unpermitted vendors operating in Salinas at the expense of vendors who played by the rules and obtained a permit. To efficiently and fairly administer the Vendor Program, resources must be dedicated to vendor education and Ordinance enforcement.

The City Council's adoption of the proposed Vendor Ordinance would result in the following initial project and enforcement costs of \$164,100 and annual enforcement costs of \$141,000.

Initial Project and Enforcement Cost		
Pavement marking and signage for 52 locations	\$1,200 per location	\$62,400
Code Enforcement Officer Overtime (6 months)	Time and half after 8-hr shift	\$31,200
Code Enforcement Officer II (6 months)	Step 6 wages + benefits at step 6	\$70,500
Total:		\$164,100

On-going Annual Enforcement Costs		
Code Enforcement Officer II	Step 6 wages + benefits	\$141,000
Total:		\$141,000

Should the Ordinance Amendments be approved it is further recommended that City Council direct staff to conduct a study of vendor permit fees to ensure program costs are covered. Permit fees charged are to cover program costs. It has been over 10 years since the vendor permit fees were analyzed. Given anticipated program expansion under an amended ordinance, there will be additional

staff cost for program implementation. A revised fee structure along with administrative citations would offset fiscal impact to the General Fund.

ATTACHMENTS:

Attachment 1: Article XVI, Chapter 20 Ordinance Amendment with Errata Sheet (9.21.21)
Attachment 2: Chapter 37 Ordinance Amendment (ZCA 2021-004) – no changes
Attachment 3: Resolution – Vendor Ordinance Budget Appropriation (9.21.21)
Attachment 4: Resolution – Establishment of 52 Designated Spaces (9.21.21)
Attachment 5: Collision Data at Vending Locations
Attachment 6: Community Regulations for Community Health and Safety
Attachment 7: SUBA Letter for City of Salinas Updated Food Truck Ordinance (8.22.21)
Attachment 8: PowerPoint Presentation Second Reading (9.21.21)
Attachment 9: Vendor and Zoning Code Ordinance Amendments Second Reading Staff Report (8.24.21)
Attachment 10: Article XVI, Chapter 20 Ordinance Amendment with Errata Sheet (8.24.21)
Attachment 11: Resolution – Vendor Ordinance Budget Appropriation (8.24.21)
Attachment 12: PowerPoint Presentation Second Reading (08.24.21)
Attachment 13: Vendor and Zoning Code Ordinance Amendments First Reading Staff Report (06.22.21)
Attachment 14: Article XVI Vendor Ordinance Amendment First Reading
Attachment 15: PowerPoint Presentation First Reading
Attachment 16: Planning Commission Resolution (ZCA 2021-004)
Attachment 17: Vendor Ordinance Update – Summary of Changes, dated June 14, 2021
Attachment 18: Food Truck Regulations for other Cities
Attachment 19: Proposed Vendor Designated Locations, dated June 14, 2021
Attachment 20: draft Vision Zero Action Plan, 10 High Collision Corridors
Attachment 21: draft Vision Zero Action Plan, 10 High Collision Intersections
Attachment 22: draft Vending Exhibits