

THIS PRINT COVERS CALENDAR ITEM NO. : 10.4

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Sustainable Streets

BRIEF DESCRIPTION:

Resolution amending San Francisco Transportation Code, Division II, Article 900 (Permits) by adding Section 913 to establish certain parking time limit exemptions for vehicles that display a valid Mobile Food Facility Permit.

SUMMARY:

- In conjunction with changes being approved by the Board of Supervisors for Division I, this change to Division II, Section 913 of the San Francisco Transportation Code establishes parking time limit exemptions for vehicles that display a valid Mobile Food Facility Permit issued by the Department of Public Works.
- These regulations will allow permitted mobile food facilities to be exempt from posted Residential Parking Permit Area time limits and parking time limits at parking meters. These exemptions do not apply to commercial yellow or green zones. Mobile food trucks will continue to be required to pay parking meter fees.
- With a more visible permit, the SFMTA will be better able to enforce violations by unpermitted vehicles that are not authorized to sell foods or are not exempt from parking time limits while selling food.

ENCLOSURES:

1. SFMTAB Resolution
2. Transportation Code Division II Resolution
3. Transportation Code Division I Proposed Ordinance

APPROVALS:

DATE

DIRECTOR _____

1/7/13

SECRETARY _____

1/7/13

ASSIGNED SFMTAB CALENDAR DATE: January 15, 2013

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PURPOSE

Resolution amending San Francisco Transportation Code, Division II, Article 900 (Permits) by adding Section 913 to establish certain parking time limit exemptions for vehicles that display a valid Mobile Food Facility Permit.

GOAL

This action supports the following SFMTA Strategic Plan Goal and Objectives:

Goal 3: Improve the environment and quality of life in San Francisco

Objective 3.2: Increase the transportation system's positive impact on the economy.

DESCRIPTION

Mobile Food Facilities (MFFs) are regulated by the Public Works Code (Article 5.8). A Mobile Food Facility is any vehicle or pushcart used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. In order to address a growing trend, the Board of Supervisors adopted an ordinance regulating Mobile Food Facilities in December 2010, and DPW issued permit rules in 2011.

The City has approved roughly 103 MFFs (72 Trucks and 31 Push Carts) at a total of 612 locations.

DPW issues permits for MFF to operate in a certain limited area (like a one block face) at a certain time (such as lunch time). Parking spaces are not reserved, so each operator has to find a suitable open parking space from which to operate. Current rules for MFF permits are that "All applicable parking regulations shall be observed" (DPW Order No: 179,044). However, as the program has evolved, some food truck operators have expressed concerns with certain parking time limits, particularly shorter time limits of one to two hours. MFF's set up and serving hours can be longer than the time limit posted on the street or meter, resulting in parking tickets or uncertainty about whether their operations are legal.

Earlier this year, Supervisor Scott Wiener convened a task force of interested parties associated with the mobile food truck industry to discuss a range of issues associated with this new business model. As a result of these discussions, new legislation is now being introduced to amend the City's Municipal Codes in various ways. SFMTA and DPW staff met with Supervisor Wiener's Office and agreed to pursue the following changes that specifically concern the SFMTA:

- Amend Division I, Section 7.2.82 of the Transportation Code to clarify that the sale of merchandise or services is prohibited from a parking space in commercial areas, except for permitted food trucks. Sale of merchandise from on-street parking spaces in commercial areas has been prohibited since the 1980's, but this violation has not been updated to reflect the recent changes with the MFF legislation. Permitted MFFs will now be required to display a permit in the vehicle in a format approved by the SFMTA. The purpose of this requirement is to create a visible and recognizable permit that can facilitate enforcement by SFMTA Parking Control Officers.

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- Amend Division II of the Transportation Code by adding Section 913 to exempt Mobile Food Facilities displaying a valid permit from applicable time limits for Residential Parking Permit Areas (Div. I, Section 7.2.20) and Overtime Parking (Div. I, Section 7.2.30). This section also clarifies that a Mobile Food Facility permit does not exempt a vehicle from applicable time limits for yellow zones (Div. I, Section 7.2.26) or green zones (Div. I, Section 7.2.28) nor does it exempt a vehicle from payment at Parking Meters (Div. I, Section 7.2.23).

The Board of Supervisors will hear the amendments to Division I at the Land Use Committee in January 2013.

The Department of Public Works will continue to be fully responsible for the permitting of MFFs, with outreach to adjacent property owners, and for addressing any complaints that arise from their operation. The SFMTA will only be responsible for enforcement of parking regulations.

ALTERNATIVES CONSIDERED

Four alternatives were considered:

- Establishing a permit system where the SFMTA would reserve a parking space for a specific MFF using signs and paint markings. This would require the SFMTA to reserve an on-street parking space for every new MFF that is permitted to operate in the City. The benefits are that it would remove the need for MFF operators to search for an open parking spot. The disadvantages are that it would remove the flexibility in the use of a parking space by other parties and increase administrative complexity and maintenance for SFMTA. It is also not clear if this type of permit system is allowed by the California Vehicle Code.
- Increasing the time limits on certain or all parking meters so that the meters have time limits of 4 hours or longer. This would remove the issue of MFFs violating parking meter time limits but would not address other time limit restrictions. This was also considered administratively burdensome, requiring review and adjustment of multiple meters as MFFs are permitted. This approach could also result in inconsistencies in time limits, or in having time limits that are not suitable for other needs.
- Allowing MFFs to park for extended periods in yellow zones. This was considered contrary to the intent of yellow zones, which is to provide loading opportunities for merchants and property owners. Having a food truck occupy a yellow zone for extended periods would result in additional double parking. In the Financial District, in particular, many MFFs are currently using yellow zones to sell food.
- Leaving the current regulations in place that require MFFs to follow all posted regulations, like any other commercial vehicles. This would have not addressed the concern that MFFs need more time than is often provided to be viable in certain areas.

FUNDING IMPACT

None. The number of permitted food trucks is relatively small. Permit issuance costs will be borne by DPW, which collects the MFF permit fee. SFMTA will not collect any fees as part of this program and fines collected are expected to be few. MFFs will continue to have to pay at parking meters. Improved enforcement of the meter payment requirement will ensure better compliance on the part of MFFs.

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CEQA/ENVIRONMENTAL REVIEW

Under the authority granted by the Planning Department, SFMTA staff has determined that the proposed parking exemptions for vehicles that display a Mobile Food Facility Permit are categorically exempt from environmental review pursuant to CEQA implementing guidelines, Title 14 of the California Code of Regulations section 15060(c)(2) since the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and as a Class 1(c)(9) categorical exemption because such changes do not establish a higher speed limit or result in more than a negligible increase in the use of the street.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

Changes to Transportation Code Division I have to be approved by the Board of Supervisors.

The SFMTA has yet to approve a MFF permit design for the Department of Public Works. This will be done after pending legislation is approved.

The City Attorney has reviewed this calendar item.

RECOMMENDATION

Staff recommends that the SFMTA Board of Directors approve amending San Francisco Transportation Code, Division II, Article 900 (Permits) Section 913 to establish certain parking time limit exemptions for vehicles that display a valid Mobile Food Facility Permit.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, the Board of Supervisors have allowed Mobile Food Trucks to be permitted and sell food from City streets; and,

WHEREAS, Mobile Food Truck operators have indicated the desire to park for periods of time longer than presently allowed at parking meters or signed time limit areas; and,

WHEREAS, Section 900 of the Transportation Code establishes various permits that the SFMTA recognizes; and,

WHEREAS, The SFMTA wishes to exempt Department of Public Works permitted Mobile Food Trucks from posted Residential Parking Permit Area parking time limits and parking time limits at parking meters; and,

WHEREAS, Permitted Mobile Food Trucks will not be except from commercial yellow or green zone parking restrictions; and,

WHEREAS, Permitted Mobile Food Trucks will be required to continue to pay parking meter fees; and,

WHEREAS, Under the authority granted by the Planning Department, SFMTA staff has determined that the proposed parking exemptions for vehicles that display a Mobile Food Facility Permit are categorically exempt from environmental review pursuant to CEQA implementing guidelines, Title 14 of the California Code of Regulations section 15060(c)(2) since the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and as a Class 1(c)(9) categorical exemption because such changes do not establish a higher speed limit or result in more than a negligible increase in the use of the street; and,

WHEREAS, Said CEQA determination is on file with the Secretary to the SFMTA Board of Directors and are incorporated herein by reference; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amends San Francisco Transportation Code, Division II, Article 900 (Permits) by adding Section 913 to establish certain parking time limit exemptions for vehicles that display a valid Mobile Food Facility Permit.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of January 15, 2012.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

[Transportation Code – Mobile Food Facility Permit Parking Exemptions]

Resolution adding San Francisco Transportation Code, Division II, Article 900 (Permits) Section 913 to establish parking exemptions for vehicles that display a valid Mobile Food Facility Permit.

NOTE: Additions are [begin addition] single-underline Times New Roman [end addition] ; deletions are [begin deletion] ~~strike through Times New Roman~~ [end deletion] .

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco enacts the following regulations:

Section 1. Article 900 of Division II of the Transportation Code is hereby amended by adding Section 913, to read as follows:

[begin addition] SEC. 913. MOBILE FOOD FACILITY PERMITS.

(a) General Permit Requirements.

The SFMTA shall establish requirements regarding the size, typeface, and display of a Mobile Food Facility permit, issued pursuant to Article 5.8 of the San Francisco Public Works Code, on a permittee's vehicle in order to exempt such vehicle from the parking restrictions set forth below.

(b) Permit Privileges.

(1) Any vehicle that displays a valid Mobile Food Facility permit in compliance with SFMTA requirements shall be exempt from applicable time limits for Residential Parking Permit Areas (Div. I, Section 7.2.20) and Overtime Parking (Div. I, Section 7.2.30).

(2) A Mobile Food Facility permit does not exempt a vehicle from applicable time limits for yellow zones (Div. I, Section 7.2.26) or green zones (Div. I, Section 7.2.28).

(3) A Mobile Food Facility permit does not exempt a vehicle from payment at Parking Meters (Div. I, Section 7.2.23).

(4) A Mobile Food Facility permit does not exempt the vehicle from any other Parking restriction.
[end addition]

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

By: _____
JOHN I. KENNEDY
Deputy City Attorney

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of January 15, 2013.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

1 [Transportation Code – Selling or Distributing From a Vehicle Restrictions]

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3 **Ordinance amending the San Francisco Transportation Code, Division I, Article 7**
4 **(Violations) Section 7.2.82 to prohibit any person to Park a Mobile Food Facility vehicle**
5 **in either a business district or a residential area and, from that vehicle, offer food or**
6 **beverages for sale unless displaying a valid permit issued by the Department of Public**
7 **Works, in a format and manner approved by the Municipal Transportation Agency.**

8 NOTE: Additions are [begin addition] single-underline italics Times New
9 Roman [end addition] ; deletions are [begin deletion] ~~strike-through italics Times New Roman~~
10 [end deletion] . Board amendment additions are double-underlined;
11 Board amendment deletions are [begin deletion] ~~strikethrough~~
~~normal~~ [end deletion] .

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

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Section 1. Article 7 of the San Francisco Transportation Code is hereby amended by
14 amending Section 7.2.82, to read as follows:

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SEC. 7.2. INFRACTIONS.

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In addition to public offenses created by the Vehicle Code, the actions listed in this
17 Section 7.2 are prohibited, and each and every violation of a prohibition listed below shall be
18 an infraction, except as otherwise provided in: (a) this Code; or (b) the Vehicle Code; or (c) as
19 necessary to comply with the direction of a Police Officer or Parking Control Officer; or (d) with
20 respect to a Municipal Parking Facility, upon the direction of an authorized parking attendant;
21 or (e) with respect to any other Public Property, except with the permission of, and subject to
22 such conditions and regulations as are imposed by the agency that owns the property that are
23 available for public inspection at the agency's offices.

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SEC. 7.2.82. SELLING FROM A VEHICLE RESTRICTED.

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1 *[begin addition] (a) [end addition]* For any person to Park any vehicle upon any street in any
2 business district and *[begin addition] , from that vehicle, [end addition]* offer merchandise *[begin*
3 *addition] , services, food, or beverages [end addition]* for sale *[begin deletion] ~~from the vehicle~~ [end*
4 *deletion] [begin addition] except for Mobile Food Facilities (as defined in Article 5.8 of the San*
5 *Francisco Public Works Code) that display a valid permit issued by the Department of Public Works, in*
6 *a format and manner approved by the Municipal Transportation Agency [end addition] .*

7 *[begin addition] (b) For any person to Park a Mobile Food Facility vehicle upon any street in*
8 *any residential area and, from that vehicle, offer food or beverages for sale unless displaying a valid*
9 *permit issued by the Department of Public Works, in a format and manner approved by the Municipal*
10 *Transportation Agency [end addition] .*

11 Section 2. The Planning Department has determined that the actions contemplated in
12 this ordinance comply with the California Environmental Quality Act (California Public
13 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
14 Board of Supervisors in File No. ____ and is incorporated herein by reference.

15 Section 3. Effective Date. This ordinance shall become effective 30 days from the
16 date of passage.

17 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
18 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
19 punctuation, charts, diagrams, or any other constituent part of the Transportation Code that
20 are explicitly shown in this legislation as additions, deletions, Board amendment additions,
21 and Board amendment deletions in accordance with the "Note" that appears under the official
22 title of the legislation.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 JOHN I. KENNEDY
5 Deputy City Attorney
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