

# Public Hearing

INTRODUCTION OF ORDINANCE

CODE AMENDMENT OF NCMC 9.07  
RELATED TO OUTDOOR FOOD  
VENDORS



# Background

- NCMC 9.06 regulates food sales from mobile food vending vehicles
  - e.g. food trucks, trailers, etc.
- NCMC 13.30 regulates sidewalk vendors
- Food sales permitted as part of a temporary event
  - NCMC 15.60 (Temporary Use Permits)
- NCMC 9.07 permits private catering operations
- All activities associated with above Code sections require County Health Approval (DEHQ)
- COVID-19 resulted in increase in outside food sales
- Establishing or niche businesses have fewer options
  - Location
  - Lack of established clientele
  - Property size
- Advent of permanent non-kitchen based alternatives
  - Parking lot-based vendors or similar (carts, tables, etc.)
- Sidewalk vendors limited to street rights-of-way
- Title 18 typically requires that all uses be conducted in enclosed buildings



# Proposal

- Staff suggesting an amendment to Chapter 9.07 (Food Caterers and Catering Equipment Rentals)
  - Would address food vending covered under existing DEHQ permitting framework
- Intent to allow smaller service businesses without kitchens to offer limited food sales on the property
- City of San Diego has similar allowances
- City of Los Angeles has removed almost all barriers to outside food vending



# Analysis

- DEHQ regulates three primary exterior food activities:
  - **Mobile Food Facilities** (NCCMC 9.06)
    - e.g. food trucks
  - **Temporary Food Facilities** (NCCMC 15.60)
    - e.g. temporary community event
  - **Satellite Food Service Operations**
    - e.g. restaurant, market ~ business with interior food preparation facilities



# Analysis (cont.)

- Satellite Food Service Operations are for a restaurant or market to produce food in the business on site and serve it outside
  - e.g. Seafood City, Costco
- **Private event catering**
  - Related to a permitted event
  - Business license.
- **Direct-sales catering**
  - Catering where food is served to members of the public
    - i.e., all catering other than private event catering
    - Generally not limited in location
  - Only allowed at permitted **catering host facility**
    - Restrooms, power, sinks for cleaning dishes, potable water.



# Analysis (cont.)

“Limited food preparation”, defined as one or more of the following:

1. Heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of non-prepackaged food.
2. Dispensing and portioning of non-potentially hazardous food or dispensing and portioning for immediate service to a customer of food that has been temperature controlled until immediately prior to portioning or dispensing.
3. Holding, portioning, and dispensing of any foods that are prepared by a catering operation.
4. Slicing and chopping of non-potentially hazardous food or produce that has been washed at an approved facility or slicing and chopping of food on a heated cooking surface during the cooking process.
5. Cooking and seasoning to order.
6. Juicing or preparing beverages that are for immediate service, in response to an individual consumer order, which do not contain frozen milk products.
7. Hot and cold holding of food that has been prepared at an approved permanent food facility.
8. Reheating of food that has been previously prepared at an approved permanent food facility and held at temperatures required by this chapter.



# Analysis (cont.)

Limited food preparation does not include any of the following:

1. Slicing and chopping potentially hazardous food, other than produce, unless it is on the heated cooking surface.
2. Thawing.
3. Cooling of cooked, potentially hazardous food.
4. Grinding raw ingredients or potentially hazardous food.
5. Washing of foods.
6. Cooking of potentially hazardous foods for later use.
7. Handling, manufacturing, freezing, processing, or packaging of milk, milk products, or products resembling milk products.



# Analysis (cont.)

- Staff has provided draft ordinance amending NCMC 9.07
  - Defines DEHQ requirements
  - Defers to DEHQ permitting process
  - Requirement for a City business license
  - Requirement to maintain access to required parking spaces
    - These types of uses will typically occur within parking lots





# Findings

- 2 required findings
  - General Plan Conformance
    - Food sales an allowable use in commercial and mixed-use zones
  - CEQA
    - Exempt from CEQA (not a project)
    - No increase in density or additional permissions granted
    - No direct physical change or reasonably foreseeable indirect physical change in the environment



# Summary

- Staff is suggesting amendment to the Municipal Code to allow smaller businesses with limited resources to expand their ability to serve their customers
- If approved, the Ordinance will allow outside food sales on a limited basis
  - Subject to County health permit regulations
- The amendment would make the City consistent with other similar jurisdictions
- If introduced, Ordinance for adoption will follow at next City Council meeting
- Subsequent amendments to Title 18 (Zoning) will follow to add cross-references related to the amended Chapter 9.07
  - Recommendation from the Planning Commission.



# Options

- Introduce amendment to Section 9.07, based on the attached findings or findings to be determined by the City Council ; or
- File the report (not amend Section 9.07 of the Land Use Code based on findings to be determined by the City Council); or,
- Continue the item to a specific date and provide direction
- Staff recommending approval

