



SUBJECT: An amendment to the Brentwood Municipal Code to update Chapter 5.68 (Mobile Vending) to establish new mobile vending regulations and an amendment to Chapter 17.850 (Temporary Use Permits) to add regulations related to Long-Term Mobile Vending Facilities

DEPARTMENT: Community Development Department

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TITLE/RECOMMENDATION

Waive the first reading and introduce:

1. An ordinance approving an amendment (Rezone No. 24-004) to [Brentwood Municipal Code Chapter 17.850](#) (Temporary Use Permits) to add regulations related to Long-Term Mobile Vending Facilities and Commissaries.
2. An ordinance approving an amendment to [Brentwood Municipal Code Chapter 5.68](#) (Mobile Vending) to establish new mobile vending regulations.

These two ordinances and text amendments are exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as they are not a "project" and have no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a). Further, the Ordinances are exempt from CEQA as there is no possibility that either Ordinance or their implementation would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3).

FISCAL IMPACT

If the Ordinances changes are approved, any fees for permits or revenue from business license tax certificates would be included in the General Fund. If approved, the new fees for permits would be submitted for approval by the City Council at a future meeting and would most likely be similar to recently adopted fees for sidewalk vending permits. Business license tax and fees are already included in the City's FY2023/24 Cost Allocation Plan. The amount of revenue collected will depend on the



fee amount proposed and the volume of mobile vending activity, but is not expected to have a material impact on overall General Fund revenues.

Any revenue generated by administrative citations for enforcement of the proposed Ordinances would be included in the General Fund.

BACKGROUND

CITY COUNCIL DIRECTION

On February 27, 2024, the City Council considered a new ordinance regulating Sidewalk Vending (Ordinance No. 1069) and a new ordinance repealing and replacing the City's regulations related to Mobile Vending (Ordinance No. 1070) in order to comply with new State laws and to adopt new standards to protect public health and safety. Since the proposed amendments were not part of the City's Zoning Ordinance, the amendments were not presented to the Planning Commission and were reviewed directly by the City Council that evening. The City Council provided direction related to the Mobile Vending Ordinance, including directing staff to work on additional amendments and regulations for long-term mobile vending facilities that may be considered as part of the focused zoning ordinance update within Title 17.

Upon the second reading of both ordinances on March 12, 2024, the City Council adopted the Sidewalk Vending Ordinance, but reopened consideration of the Mobile Vending Ordinance and continued the item to a future date, and directed continued discussion of the ordinance to the Land Use and Development (LUD) committee.

LAND USE AND DEVELOPMENT COMMITTEE (LUD) DIRECTION

On May 29, 2024, LUD provided recommendations on regulations for long-term mobile vending facilities that would be included in Chapter 17.850 (Temporary Use Permits) in order to create a process for mobile vending facilities to operate for longer timeframes than the time limits proposed in the draft Chapter 5.68. Since the updates proposed would be within Title 17, the Planning Commission was required to consider and make a recommendation on the proposed amendments to Chapter 17.850 prior to the amendments being presented to the City Council.

PLANNING COMMISSION ACTION

The Planning Commission considered the amendments to Chapter 17.850 at a public hearing at its regular meeting of September 3, 2024, and was supportive of the requested text amendments. The Planning Commission agreed that the amendments would help to provide greater opportunities for new mobile vending facilities that did



not fit within the new specified guidelines as outlined in Chapter 5.68 since the operational characteristics of long-term mobile vendors and commissaries are different than vendors that move regularly. The Planning Commission unanimously adopted Resolution No. 24-035, recommending that the City Council approve the amendments (RZ 24-004), amending Chapter 17.850 (Temporary Use Permits) to add regulations related to Long-Term Mobile Vending Facilities and Commissaries.

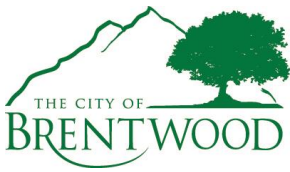
ANALYSIS

CHAPTER 5.68 (MOBILE VENDING)

The current Mobile Vending Ordinance ([Mobile Vending--BMC 5.68](#)) (attached) had not been revised since 1996 and has become outdated relative to state law and the types of mobile vending that are most prevalent in Brentwood. The current ordinance lacks precise definitions of the different types of mobile vendors, is inconsistent with the State's new sidewalk vending regulations, does not specify hours of operation in residential zones, does not address special events or vending of prohibited materials (e.g., drug paraphernalia or fireworks). Staff is recommending the repeal and replacement of the current ordinance in its entirety due to the number of changes proposed.

The proposed new Mobile Vending from Motorized Vehicles Ordinance (attached) includes more precise definitions, new regulations for hours of operation and requires a new type of permit from the City in addition to a business tax certificate. The proposed ordinance allows these types of businesses to operate in the City, but creates robust new standards that are clearer and easier to understand for both residents and businesses and are more enforceable. Below are some, but not all, of the updated regulations.

- Obtaining a health permit from Contra Costa County, if applicable;
- Obtaining a permit and business tax certificate from the City, and payment of all applicable fees;
- Identification documentation requirements;
- Location and siting requirements, including distance from certain locations and other mobile vendors, and time restrictions;
- Placing hours of operation restrictions;
- Obtaining liability insurance in the amount of \$1 Million;
- Requiring compliance with the City's sign regulations and noise regulations;
- Prohibiting vending of alcohol, cannabis, adult-oriented material, tobacco products, products that contain nicotine, any product or device used to smoke/vape nicotine or cannabis, fireworks, or any weapons (including



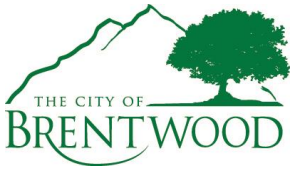
knives, air soft guns, pellet guns, paintball guns, or anything that may resemble a gun);

- Establishing violations of the ordinance as a misdemeanor; and
- Adding a definition for a long-term mobile vending facility, which would need to comply with requirements contained in Title 17 (Zoning) of the Brentwood Municipal Code.

LUD Recommended Changes to Proposed Ordinance

Based on LUD recommendations, the following changes have been incorporated into the attached Ordinance; modifying the version reviewed by the City Council in March 2024:

- Added a separate restrictive category prohibiting registered sex offenders from obtaining permits;
- Changed the allowable hours to operate a mobile vending facility within the public right-of-way in one spot from two (2) hours to three (3) hours;
- Added provisions prohibiting mobile vending on private property or within the public right-of-way within three hundred (300) feet from any single-family residentially zoned property, measured from the location of the mobile vending facility to the residential structure.
 - Although this has been included in the proposed draft, there are potential impacts and consequences that this may have related to mobile vending at or near public parks. Since the majority of the City parks are located within residential neighborhoods, this provision would essentially ban mobile vending at or near most parks. If the City Council would like mobile vending to be allowed at City parks, the Council could consider adding an exception to this provision to the attached ordinance in Section 5.68.040 (C)(f), Public Right of Way, Location and Siting Requirements.
- Added a provision prohibiting mobile vending on private property or within the public right-of-way within the Downtown Specific Plan – Downtown Core District, unless approved as part of a Temporary Special Permit.
- Added a separation requirement on private property or within the right-of-way within one hundred (100) feet from the main entrance to any eating establishment, outdoor dining area, or similar food service business, measured from the location of the mobile vending facility to the commercial structure, unless the mobile vending facility first obtains written permission from the business owner.
 - It should be noted that LUD recommended a separation requirement of three hundred (300) feet. After reviewing this recommendation with legal counsel, legal counsel recommended reducing the distance to



100 feet based on the potential of the larger distance to mostly, or completely, ban food trucks City-wide.

Time Limits

Mobile vending facilities are moveable, located outside, and must be moved to a commissary at night. They may be temporary uses, or, if they comply with the requirements of Title 17 (Zoning) of the Brentwood Municipal Code, may operate as a long-term mobile vending facility. Section 5.68.050(M), Operating Regulations, stipulates that, except for long-term mobile vending facilities, mobile vending shall not occur on the same private property more than cumulative four (4) days within a thirty-day period. Title 17 (Zoning) of the Brentwood Municipal Code will govern the term allowed for a long-term mobile vending facility.

There may be circumstances where mobile vending facilities could operate for a longer period of time or on a semi-permanent basis; this could potentially include during a restaurant remodel or as part of a new development project that includes an on-site commissary. Staff is proposing the below amendments to Chapter 17.850 (Temporary Use Permits) to address these circumstances.

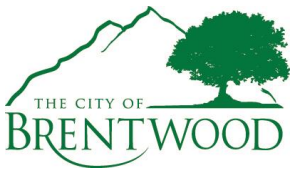
Effective Date

As described below, staff conducted extensive public outreach for this City Council hearing and will conduct additional outreach to mobile vendors if the ordinance is adopted by the City Council. The attached Mobile Vending Ordinance includes an effective date of March 1, 2025. If adopted, the ordinance's later effective date will allow staff time to conduct outreach to the effected businesses and allow those businesses additional time to prepare for obtaining a permit from the City.

CHAPTER 17.850 (TEMPORARY USE PERMITS)

Operational characteristics of long-term mobile vendors and commissaries are different than vendors that move regularly. "Long-term mobile vending facilities" are defined as those *that operate on a longer-term than allowed in Chapter 5.68, not short-term basis, that are allowed by the underlying non-residential zoning district, are an ancillary use to a primary use on the property, or that can not meet all requirements as outlined in Chapter 5.68, and comply with all the requirements contained in Title 17 (Zoning) of the Brentwood Municipal Code.* Long-term mobile vending facilities may include those that wish to remain on the private or public property more than the number of hours or days allowed in Chapter 5.68.

Based on the unique operating characteristics, staff recommends that a new approval process and new regulations for these operations be incorporated into Title 17 Zoning



of the BMC. Aspects of Chapter 5.68 (e.g., the requirement for a mobile vending license) would still apply, but new zoning regulations would create additional land use regulations and standards applicable only to long-term mobile vending facilities and commissaries. Applying the relevant sections of Chapter 5.68 and new zoning regulations to long-term mobile vending facilities and commissaries would ensure consistency of regulations for these facilities, as well as ensure their safe and sanitary operation on a long-term basis.

Temporary Review Process

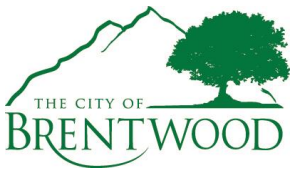
Staff is recommending modifications to Brentwood Municipal Code [Chapter 17.850 \(Temporary Use Permits \(TUP\)\)](#) (attached) in order to establish clear and concise criteria in which to review and approve long-term mobile vending facilities and commissaries with associated mobile vending facilities. Permitting long-term mobile vending facilities and commissaries through the TUP process allows the City greater flexibility in approving, denying, and/or revoking permits. Major TUPs are reserved for larger events or applications, while minor TUPs are considered more routine in nature. Applicants would be required to apply for a major TUP upon initial submittal and would be allowed to apply for a minor TUP for subsequent renewals each year. This would allow the City to review each permit on an annual basis prior to renewal.

Long-Term Mobile Vending Standards

In addition to the need for updated regulations for mobile vendors that are only at a location for a short amount of time, there is a need for new regulations that apply specifically to mobile vendors that may be able to operate for longer timeframes than the time limits proposed in the draft Chapter 5.68.

LUD recommended that the following general parameters for long-term mobile vending zoning regulations be included in revisions to Chapter 17.850.

- 1. Setbacks.** Long-term mobile vending facilities would be required to be located at least five feet from the edge of any driveway or public sidewalk, utility boxes and vaults, handicapped ramp, building entrance, exit or emergency access/exit way, or emergency call box and be located a minimum distance of 15 feet in all directions of a fire hydrant.
- 2. Parking requirements.** Long-term mobile vending facilities would only be permitted to be parked in a designated parking space(s) on a paved surface outside any designated fire lane. The mobile vending facility and associated seating, if any, shall also be located outside any parking or loading space that



is required to fulfill the minimum parking requirements for the principal use on the property, during the principal use's hours of operation.

- 3. Seating requirements.** All associated tables, seating, and/or shade structures must be removed at the end of each business day and may not be permanently erected outside of business operations. In addition, all associated furnishings shall be maintained in a clean manner such that it does not create an unsightly appearance.
- 4. Utilities.** Electric outlet hookups are required to be installed for long-term mobile vending facilities and must be used while the mobile vending facility is on the premises. No generators shall be utilized on-site. If extension cords, hoses or other utilities are required, they shall be safety secured and not impede any path of travel.
- 5. Accessibility Requirements.** Long-term mobile vending facilities must operate in a manner and have access to restrooms consistent with current California Building Code (CBC) standards, which shall be provided on site and located within a maximum of 50 feet from the proposed long-term mobile vending facility parking location, unless otherwise approved by the community development director. Restrooms shall be provided, at no charge, for customer use during normal business hours and shall be continuously maintained in a clean and sanitary manner.

Commissaries

In addition to the need for updated regulations for mobile vendors that operate and sell within the City, there is a need for regulations for mobile vendors that utilize an existing commercial building as a commissary and remain onsite overnight, which is not permitted under general regulations outlined in the draft Chapter 5.68.

A "Commissary" is defined as a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur: (1) food, containers, or supplies are stored; (2) food is prepared or prepackaged for sale or service at other locations; (3) utensils are cleaned; or (4) liquid and solid wastes are disposed, or potable water is obtained. A commissary may be considered in an underlying non-residential zoning district, if the commissary is an ancillary use to a primary permitted use on the property, and complies with all the requirements contained in Title 17 (Zoning) of the Brentwood Municipal Code. TUP approval would be required in order to allow for a mobile vending facility to remain on-site overnight, when associated with an on-site commissary.



Staff is recommending the following general parameters for commissary and associated mobile vending facilities be included in revisions to Chapter 17.850 related to long-term mobile vending facilities.

1. **Ownership.** All associated mobile vending facilities approved to be on the site of a commissary must be directly owned or operated by the commissary.
2. **Number of Mobile Vending Facilities per Commissary.** No more than two mobile vending facilities may be approved through the Temporary Use Permit process for each commissary.
3. **Parking Requirements.** The mobile vending facility associated with the commissary is only permitted to be parked in a designated parking space(s) on a paved surface outside any designated fire lane. The mobile vending facility and associated seating, if any, should also be located outside any parking or loading space that is required to fulfill the minimum parking requirements for the principal use on the property, during the principal use's hours of operation.
4. **County Approval.** Prior to operating, a commissary shall obtain a commissary permit issued by Contra Costa County, if applicable.

COMMUNITY OUTREACH

Prior to the February 27, 2024 City Council meeting, the May 29, 2024 LUD meeting, and the September 3, 2024 Planning Commission meeting, additional public outreach to current mobile vendors was done which resulted in several vendors providing comments and recommendations on the draft Ordinance. Prior to this City Council meeting, a notification letter was mailed and emailed to 74 businesses that City staff identified as Mobile Vendors with either an active City of Brentwood Business Tax Certificate, or individuals who expressed interest in obtaining information regarding upcoming revisions. The letter included details regarding the proposed municipal code revisions, the date/time of the City Council meeting, information about when/where the agenda with the draft ordinances would be available, as well as information pertaining to submitting public comments. The letter was also shared with the Downtown Brentwood Coalition, the Chamber of Commerce, and the Foodie Crew, as they provide mobile food vendor event planning services.

If the City Council adopts the new ordinances, Community Development staff will conduct further outreach to the businesses impacted by the new regulations. This will include making contact with businesses directly, social media posts, and



**CITY COUNCIL AGENDA ITEM NO. F.2
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advertisements in local publications. A Mobile Vending brochure will be circulated during the outreach. More detailed information regarding how to obtain a Mobile Vending permit with a link to the applications will also be available on the City's website. Community Development staff will continue to collaborate with other departments involved with both Mobile Vendors and Sidewalk Vendors, including Finance, Police and Parks & Recreation.

CONCLUSION

These proposed ordinance amendments, if adopted, will assist in the City's desire to regulate mobile vending, while also safe-guarding the flow of pedestrian movement on public and private sidewalks and in the public right-of-way, and ensure no interference with the performance of police, firefighter, and emergency medical personnel services. In addition, this amendment will provide greater clarity to Community Enrichment staff to regulate the type of vending, and the time, place, and manner of vending from vehicles upon the street in order to promote public safety.

CITY COUNCIL STRATEGIC INITIATIVE

Not Applicable.

PREVIOUS ACTION

Previous Action by the City Council is included on Attachment 1.

DATE OF NOTICE

The City of Brentwood published a public hearing notice in the [Brentwood Press](#) on October 11, 2024.

ENVIRONMENTAL DETERMINATION

The proposed ordinances are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) - Common Sense Exemption - in that the proposed ordinances would only establish and clarify administrative processes and would not facilitate new construction or other groundbreaking activities. There is no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment. None of the circumstances described in CEQA Guidelines Section 15300.2 applies.



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10/22/2024**

In addition to CEQA Guidelines Section 15061(b)(3), the proposed ordinances would also be exempt from the CEQA pursuant to CEQA Guidelines Section 15311(c) in that the proposed ordinances relate to the placement of seasonal or temporary use mobile food units, in generally the same locations from time to time in areas designed for public use. Finally, the ordinances are not a “project” and have no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a).

ATTACHMENT(S)

1. Previous Actions
2. Draft Ordinance Chapter 5.68 (Mobile Vending)
3. Draft Ordinance Chapter 17.850 (Temporary Use Permits)