

ORDINANCE NO. 3514 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

AMEND CITY CODE SECTION 32-3 TO BE CONSISTENT WITH MONTEREY CITY CODE SECTION 20-74 PROVIDING THAT SECTION 32-3 DOES NOT REGULATE PUBLIC STREETS

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, the Monterey City Council is amending Monterey City Code Chapter 20, Article 6, Section 74 to regulate peddling food from the public right-of-way because it currently conflicts with and is preempted by California Vehicle Code provisions regulating vending on public streets. To be consistent with this amendment, Monterey City Code, Chapter 32, Section 3 also requires amendment.

WHEREAS, The City of Monterey Planning Office determined the project is exempt from the California Environmental Quality Act (CEQA) Guidelines (Article 19, Section 15305, Class 5) because the project proposes minor alterations to the City Code to allow temporary mobile food vending that does not result in land use or density changes.

Furthermore, the project does not qualify for any of the exceptions to the categorical exemptions found at CEQA Guidelines Section 15300.2.

Exception a - Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. The proposed mobile food vending is temporary and expected to be primarily conducted on city streets or private property. The environment is not particularly sensitive.

Exception b - Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. The proposed ordinance will not result in a cumulative impact as the vending is temporary and vendors are subject to time and space limitations.

Exception c - Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The proposed ordinance allows mobile food vending. No significant impact is anticipated as the vending is temporary and vendors are subject to time and space limitations.

Exception d - Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified Environmental Impact Report (EIR). The ordinance does not enable mobile food vending on the City's officially designated state scenic highways.

Exception e - Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

Exception f - Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Chapter 32, Section 3 is hereby amended to read as follows:

“Sec. 32-3. Transacting private business on public property.

No person shall use or employ any portion of any park, mall, plaza, or any other public property, not including public streets, for the conducting or transaction of any private commercial business or activity. This section shall not apply to concessions granted by or to lands leased by the City of Monterey.”

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 3rd day of March, 2015, by the following vote:

AYES:	4	COUNCILMEMBERS:	Barrett, Downey, Haffa, Roberson
NOES:	1	COUNCILMEMBERS:	Smith
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:



Mayor of said City

ATTEST:



City Clerk thereof