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AGENDA ITEM NO

6 (Action Item – Public Hearing)

PLANNING COMMISSION
MEETING DATE:

June 26, 2024

SUBJECT:

Zone Text Amendment (ZTA) No. 2024-02/Inyo County-Mobile Food Facilities

EXECUTIVE SUMMARY

Staff has drafted a proposed ordinance to add Chapter 18.61 – Mobile Food Facilities and amend Sections 18.44 – Central Business, 18.48 – Highway Services and Tourist Commercial, and 18.54 – Commercial Recreation, of the Inyo County Code to allow for Mobile Food Facilities on Private Property. The project is Exempt from the California Environmental Quality Act by the Common Sense Rule 15061(b)(3) and 15268 – Ministerial Projects.

PROJECT INFORMATION

Supervisory District: County-wide

Applicants: Inyo County

Landowners: Multiple
Address/

Community: County-wide

A.P.N.: County-wide

Existing General Plan: N/A

Existing Zoning: N/A

Surrounding Land Use: N/A

Recommended Action: **Adopt the attached Resolution, recommending that the Board of Supervisors:**

- 1.) Find the proposed project exempt from the requirements of the California Environmental Quality Act.
- 2.) Make certain Findings with respect to, and approve, Zone Text Amendment ZTA-2024-02/ Mobile Food Facilities

Alternatives:

- 1.) Recommend modifications to the proposal.
- 2.) Recommend denial.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

Project Planner:

Cathreen Richards

BACKGROUND

In late 2023 and early 2024 the County Public Works department found that several people were using county parks to set up mobile businesses to sell goods. This is not an allowed use on County property and the activity brought about a conversation regarding these businesses on a more comprehensive scale. As part of this conversation, the appropriateness of allowing mobile food facilities on private land was also discussed. As a result of this discussion, the Planning Department was asked to research and prepare a draft mobile food facility ordinance. A desire for this use in the County's communities is frequently expressed along with descriptions of the lack of brick-and-mortar based restaurants. The desire for them was made even more apparent during mandatory indoor restaurant closures brought about by the Covid pandemic. At this time, the County relaxed its regulations prohibiting outdoor seating and due to the comments received from the public during this time, the regulations were permanently changed to allow for outdoor seating an accessory use to food service establishments. This in turn brings up the question as to why the County still does not allow for mobile food facilities without a conditional use permit.

ANALYSIS

Staff has reviewed the County's Commercial zones and found that the Central Business (CB), Highway Services and Tourist (C2) and Commercial Recreation (C5) allow for food and beverage services, but restrict all outdoor business activities, primarily by requiring a conditional use permit to conduct them. Planning staff frequently has to inform people that if they want to have a mobile food facility business, they have to get a conditional use permit. In most cases, this results in either lost interest or mobile food facility businesses without CUPs.

Inyo County with its sunny climate, beautiful views, towns with low populations and tourist-based economies, is a perfect place for mobile food facilities. They can be a way to provide food services without requiring a sit-down restaurant in an established brick and mortar facility, which can decrease the costs of establishing a food service business and allow for more food options in the County's small towns.

Mobile food facility vendors, even without conditional use permit requirements, have a lot of regulatory hurdles. Per the County Environmental Health Department:

- Mobile food facilities include, but are not limited to the following:
 1. Motorized ice cream facilities
 2. Motorized produce facilities
 3. Hot dog carts, Tamale carts, and other types of pushcarts
 4. Mobile food preparation units (hot food facilities)
 5. Stationary mobile food preparation units
 6. Single Operating Site Mobile Food Facilities

- The construction and operation of all Mobile Food Facilities (MFF) and Mobile Support Units (MSU) are required to comply with the applicable sections of the California Retail Food Code (CRFC).

- The Environmental Health Department of the County of Inyo initially approves all MFF and MSU in Inyo County as complying with the provisions of the state law and may require reapproval if deemed necessary.
 - After the MFF or MSU is approved to operate, the operator may not make modifications to the facility or unit without the approval of the Environmental Health Department.

- Additionally, for example, if the MFF is occupied and has 110-volt electrical, plumbing, gas appliances and equipment, or a mechanical generator or compressor, it must have a certification insignia issued by the CA Department of Housing and Community Development (HCD).

In short, the Environmental Health Department ensures these facilities can serve safe foods through a plan check, inspections, and the annual permitting process. The Department of Housing and Community Development checks to make sure that the owner has met construction standards and that the operators have safe facilities.

Since mobile food facilities are highly regulated by the Health and Safety Code, planning staff does not think that the additional requirement for a CUP should be necessary for mobile food facilities to operate in the County. There is, however, the potential for mobile food facilities to create some level of nuisance to the properties surrounding them and staff has prepared an ordinance to address these potential nuisances. These include:

- Off-street parking requirements of 2 spaces. These spaces cannot be reserved or designated to satisfy the parking requirements of other businesses.

- On properties adjacent to a residential zone, the mobile food facility and any associated outdoor seating must be 10-feet from the property boundary.
- Outdoor seating areas may be provided to serve patrons of the Mobile Food Facility. All seating areas shall be removed prior to the close of business each day. The seating shall be located in an area of the site that is not landscaped, reserved, or designated to satisfy the off-street parking of other businesses and shall not obstruct any pedestrian or vehicular traffic.
- Outdoor furniture of any kind shall remain in safe working order to provide safety to the general public and stored appropriately during non-operational hours.
- At no time shall the configuration of the Mobile Food Facility be located as to encourage or place patrons/pedestrians within access aisles, emergency accesses and/or ingress/egress locations.
- A restriction on hours of operation of 9:00pm and 7:00am.
- Required refuse and recycling containers shall be provided on site and exclusively for the site during all hours of mobile food facility operations including for the proper handling and disposal of fats, oils and grease. All refuse containers shall be collected and removed prior to closure each day.
- No overnight parking of mobile food facilities shall be permitted on the site.
- All lighting will have to conform to Inyo County Code 18.74 - Outdoor Lighting.
- All signage shall comply with Inyo County Code 18.75 - Signs
- Each mobile food facility vendor will be required to obtain all required state and county licenses and permits including encroachment permits where required. They will also have to have the property owner's permission to operate on the property.

Enforcing these regulations would be pursuant to Inyo County Code Title 22 and be treated like any other code violation.

FINDINGS

General Plan Consistency

ZTA 2024-02 – Adds Chapter 18.61/Mobile Food Facilities on Private Property to the Inyo County Code to allow for mobile food facilities in the Central Business, Highway Services and Tourist Commercial, and the Commercial Recreation zones. This will not change the currently allowed underlying commercial uses of food and beverage services but offers a different way to serve food and beverages.

Zoning Ordinance Consistency

ZTA 2024-02 is consistent with the Inyo County Zoning code as adding Chapter 18.61/Mobile Food Facilities on Private Property to allow for mobile food facilities in the Central Business, Highway Services and Tourist Commercial, and the Commercial Recreation zones does not discontinue or expand the number of allowed commercial uses within the zoning designations but offers a different way to serve food and beverages. The current allowed uses will remain consistent with the use requirements of Title 18.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the Common Sense Rule 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This project is a proposal to add a chapter to the County Code to allow mobile food facilities in zoning districts that already allow for food and beverage service, restaurants and eating establishments. This will not change the currently allowed underlying commercial uses of food and beverage services but offers a different way to serve food and beverages. Subsequent projects will be Exempt pursuant to CEQA guidelines 15268 – Ministerial Projects

RECOMMENDATIONS

Staff recommends the Planning Commission adopt the attached resolution recommending the Board of Supervisors consider ZTA 2024-02, make certain findings, and adopt the proposed ordinance adding 18.61/Mobile Food Facilities on Private Property.

Recommended Findings

1. The proposed ordinance is covered by the Common Sense Rule 15061(b)(3)
[Evidence: ZTA 2024-02 – the Common Sense Rule 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This project is a proposal to add a chapter to the County Code to allow mobile food facilities in zoning districts that already allow for food and beverage service, restaurants and eating establishments. Subsequent projects will be exempt pursuant to CEQA Guidelines 15268-Ministerial Projects.]
2. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan.
[Evidence: ZTA 2024-02 – is consistent with the Inyo County General Plan as this use will not change the current underlying commercial uses, or their relationship to accompanying commercial uses per the General Plan but offers a different way to serve food and beverages. This change also does not allow for new or expanded uses or development.]
3. Based on substantial evidence in the record, the proposed Zoning Ordinance to amend ICC 18.44 is consistent with Title 18 (Zoning Ordinance) of the Inyo County Code.
[Evidence: ZTA 2024-02 is consistent with the Inyo County Zoning code as adding Chapter 18.61/Mobile Food Facilities on Private Property to allow for mobile food facilities in the Central Business, Highway Services and Tourist

Commercial, and the Commercial Recreation zones does not discontinue or expand the allowed commercial uses within the zoning designations but offers a different way to serve food and beverages. The current allowed uses will remain consistent with the use requirements of Title 18.]

ATTACHMENTS

- A. Resolution
- B. Draft proposed ordinance

RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
COUNTY OF INYO, STATE OF CALIFORNIA, RECOMMENDING
THAT THE BOARD OF SUPERVISORS FIND THE PROPOSED
PROJECT IS EXEMPT FROM THE REQUIREMENTS OF THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT, MAKE CERTAIN
FINDINGS WITH RESPECT TO AND APPROVE ZONE TEXT
AMENDMENT NO. 2024-02 INYO COUNTY**

WHEREAS, the Inyo County Board of Supervisors, through Inyo County Code (ICC) Section 15.12.040, has designated the Planning Commission to serve as the Environmental Review Board pursuant to Section 15022 of the California Environmental Quality Act (CEQA) Guidelines, which is responsible for the environmental review of all County projects; and

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA), the proposed ordinance is covered by the Common Sense Rule 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA as this is a proposal to add a chapter to the County Code to allow mobile food facilities in zoning districts that already allow for food and beverage services. It does not expand or change the underlying commercial uses, but offers a different way to serve food and beverages and, subsequent projects will be Exempt pursuant to CEQA guidelines 15268 – Ministerial Projects; and

WHEREAS, the Inyo County Planning Commission held a duly noticed public hearing on June 26, 2024, to review and consider a request for approval of Zone Text Amendment No. 2024-02, and considered the staff report for the project and all oral and written comments regarding the proposal; and

WHEREAS, ICC Section 18.03.020 states in part that it is necessary for the zoning ordinance to be consistent with the General Plan; and

WHEREAS, the approval of ZTA 2024-02 is consistent with the Inyo County General Plan as it will result in updates to allow for Mobile Food Facilities on private property in the Central Business, Highway Services and Tourist Commercial, and the Commercial Recreation zones and ensure consistency throughout the pertinent portions of the Inyo County Code with regard to Mobile Food Facilities. This will not change the currently allowed underlying commercial uses of food and beverage services, but offers a different way to serve food and beverages; and

WHEREAS, ZTA 2024-02 is consistent with the Inyo County Zoning code as adding Chapter 18.61/Mobile Food Facilities on Private Property to allow for mobile food facilities in the Central Business, Highway Services and Tourist Commercial, and the

Commercial Recreation zones, and adjusting other portions of the ICC to ensure internal consistency throughout the Code, does not discontinue or expand the allowed commercial uses within the zoning designations. It does not expand or change the underlying commercial uses but offers a different way to serve food and beverages. The currently allowed uses will remain consistent with the use requirements of Title 18.

THEREFORE, BE IT HEREBY RESOLVED, that based on all of the written and oral comment and input received at the June 26, 2024, hearing, including the Planning Department Staff Report, the Planning Commission makes the following findings regarding the proposal and hereby recommends that the Board of Supervisors adopt the following findings for the proposed project:

RECOMMENDED FINDINGS

1. The proposed ordinance is covered by the Common Sense Rule 15061(b)(3) that states CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This project is a proposal to add a chapter to the County Code to allow mobile food facilities in zoning districts that already allow for food and beverage services, restaurants and eating establishments. It does not expand or change these underlying commercial uses but offers a different way to serve food and beverages. Subsequent projects will be Exempt pursuant to CEQA guidelines 15268 – Ministerial Projects.
2. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with the Goals and Policies of the Inyo County General Plan as will result in updates to allow for mobile food facilities on private property in the Central Business, Highway Services and Tourist Commercial, and the Commercial Recreation zones. This use will not change the current underlying commercial uses, or their relationship to accompanying commercial uses per the General Plan but offers a different way to serve food and beverages.
3. Based on substantial evidence in the record, the proposed Zoning Ordinance Amendment is consistent with Title 7 and Title 18 (Zoning Ordinance) of the Inyo County Code as adding Chapter 18.61/Mobile Food Facilities on Private Property to allow for mobile food facilities in the Central Business, Highway Services and Tourist Commercial, and the Commercial Recreation zones does not discontinue or expand the allowed commercial uses within the zoning designations, but offers a different way to serve food and beverages. The current allowed uses will remain consistent with the use requirements of Title 18.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors take the following actions:

RECOMMENDED ACTIONS

1. Approve the Amendments to Title 7 and Title 18 related to Mobile Food Facilities on private property based on all the information in the public record and on the recommendation of the Planning Commission.

PASSED AND ADOPTED this 24th day of June 26, 2024, by the following vote of the Inyo County Planning Commission:

AYES:

NOES:

ABSTAIN:

ABSENT:

Todd Vogel, Chair
Inyo County Planning Commission

ATTEST:

Cathreen Richards, Planning Director

By _____
Sally Faircloth, Secretary of the Commission

**AN ORDINANCE OF THE INYO COUNTY BOARD OF SUPERVISORS ADDING
CHAPTER 18.61 MOBILE FOOD FACILITIES AND SUBSECTIONS 18.44.020 X,
18.48.020 Q, AND 18.54.020 K TO THE INYO COUNTY CODE PERTAINING TO
ZONING REQUIREMENTS FOR MOBILE FOOD FACILITIES**

WHEREAS, Title 18 of the Inyo County Code (ICC) sets forth zoning requirements within the unincorporated area of the County; and

WHEREAS, in late 2023 and early 2024, the Inyo County Public Works Department found that vendors were operating Mobile Food Facilities in County parks, which is not allowed under the County's current code; and

WHEREAS, as part of the conversation regarding vendors in County parks, the concept of Mobile Food Facilities operating on private land in certain zoning districts as a by-right use was discussed by the Inyo County Board of Supervisors and resulted in it requesting the Planning Department research and prepare a draft ordinance addressing Mobile Food Facilities on private property; and

WHEREAS, staff has ascertained that the operation of Mobile Food Facilities as an allowable, by-right use is desirable based on the positive feedback from the community in response to the County's expanded permittance of outdoor seating for restaurants, which occurred during the Covid-19 Pandemic and was made permanent afterwards; and

WHEREAS, including the operation of Mobile Food Facilities as a permitted used within certain zones throughout the unincorporated area of the County may bring more food options to the smaller communities within the County; and

WHEREAS, staff now proposes to add Chapter 18.61 to the Inyo County Code related to Mobile Food Facilities and update Sections 18.44.020, 18.48.020 and 18.54.020 to allow for Mobile Food Facilities when operated in compliance with Chapter 18.61; and

WHEREAS, the Inyo County Planning Commission held a duly noticed public hearing to consider the proposal to allow for Mobile Food Facilities in the Central Business, Highway Service and Tourist Commercial and the Commercial Recreations zones with regard to consistency with the Inyo County Zoning Code, General Plan, and the California Environmental Quality Act (CEQA), concurred with staff recommendations, and approved a resolution recommending approval by the Board of Supervisors; and

WHEREAS, the adoption of this ordinance and subsequent projects subject to it, are Exempt pursuant to CEQA Guidelines 15061(b)(3) the General Rule and 15268 Ministerial Projects.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO ORDAINS AS FOLLOWS:

SECTION I. All recitals above are incorporated herein as findings.

SECTION II. Chapter 18.61 shall be added to the Inyo County Code to read as follows:

Chapter 18.61 - Mobile Food Facilities on Private Property

18.61.010 – Purpose and Application

18.61.020 – Definitions

18.61.030 – General Requirements

18.61.040 – Violations and Penalties

18.61.010 – Purpose and Application

- A. The purpose of this Chapter is to regulate Mobile Food Facilities on private property located throughout the unincorporated area of the County in order to protect public health, safety, and welfare, while accommodating commercial uses that generally promote an active and social pedestrian environment within appropriate areas of Inyo County.
- B. The provisions of this ordinance apply to Mobile Food Facilities that operate on any single premises for any duration of time.

18.61.020 – Definitions

- A. “Mobile Food Facility” means a vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. "Mobile food facility" does not include a "transporter" used to transport packaged food from a food facility or other approved source to the consumer as defined by Health and Safety Code Section 113932.
- B. “Land Owner” shall mean the holder of fee title to real property, whether a person, partnership, corporation or other entity recognized by law, and his/her/its lessees, permittees, assignees or successors in interest.
- C. “Permitted Mobile Food Facility Site” shall mean the real property on which the Mobile Food Facility is permitted to operate pursuant to this Chapter and Chapter 7 of the Inyo County Code.

18.61.030 – General Requirements

Mobile Food Facilities, may operate on private properties, pursuant to the following standards and conditions:

- A. The Mobile Food Facility shall obtain all required permits, including but not limited to, those required by Inyo County Environmental Health and shall, in the process of obtaining those permits, submit to Inyo County Environmental Health, the written permission of the Land Owner and lessee (if applicable) to operate a Mobile Food Facility on the Permitted Mobile Food Facility Site.

- B. The Permitted Mobile Food Facility Site shall be in the Central Business (CB), Highway Service and Tourist Commercial (C2), or Commercial Recreation (C5) zones.
- C. A minimum of two off-street parking spaces shall be provided for each Mobile Food Facility. These spaces cannot be marked as reserved for or dedicated to other businesses.
- D. If the property on which the Mobile Food Facility is stationed is adjacent to a residential zone, the Mobile Food Facility and any associated outdoor seating shall be 10-feet from the property boundary.
- E. Outdoor seating areas may be provided to serve patrons of the Mobile Food Facility. All seating areas shall be removed prior to the close of business each day. The seating shall be located in an area of the site that is not landscaped, reserved, or designated to satisfy the off-street parking of other businesses and shall not obstruct any pedestrian or vehicular traffic.
- F. Outdoor furniture of any kind shall remain in safe working order so as to provide safety to the general public and stored appropriately during non-operational hours.
- G. At no time shall the configuration of the Mobile Food Facility be located to encourage or place patrons/pedestrians within access aisles, emergency accesses and/or ingress/egress locations.
- H. Mobile Food Facilities shall not operate between the hours of 9:00pm and 7:00am.
- I. Mobile Food Facilities shall provide and manage separate refuse and recycling containers on site during all hours of operation, including for the proper handling of fats, oils, and grease. All refuse and recycling shall be collected and removed prior to closure of the Mobile Food Facility operations daily.
- J. All waste discharges are to be done at the designated commissary/food preparation site and not offsite.
- K. No overnight parking of Mobile Food Facilities shall be allowed on or around the Permitted Mobile Food Facility Site.
- L. All lighting shall conform to Inyo County Code 18.74 - Outdoor Lighting.
- M. All signage shall conform to Inyo County Code 18.75 - Signs
- N. Each Mobile Food Facility shall obtain all required state and County licenses and permits including but not limited to environmental health certifications or encroachment permits where required. All necessary permits and certifications shall be conspicuously posted on the Mobile Food Facility.
- O. Mobile Food Facilities shall comply with all applicable federal, state, and local laws and regulations including but not limited to the California Health and Safety Code, California Retail Food Code and Chapter 7 of the Inyo County Code.

18.61.040 – Violations and Penalties

- A. It shall be unlawful to install or operate any Mobile Food Facility on private property in violation of this Chapter. Any person violating any provisions of this Chapter may be subject to the provisions of the Inyo County Code Title 22. In addition, Mobile Food

Facilities operated or maintained in violation of the provisions of this Chapter, or any other applicable federal, state or local law or regulation, may be declared to be a public nuisance subject to the procedures set forth in Inyo County Code Title 22. Such remedies are in addition to and may be sought or imposed concurrently with any other remedy provided by law, regulation or ordinance.

SECTION III. Section 18.44.020 of the Inyo County Code is amended by adding the following section X:

18.44.020 Principal Permitted Uses

X. Mobile Food Facilities when operated in compliance with Chapter 18.61 and Chapter 7 of the Inyo County Code.

SECTION IV. Section 18.48.020 of the Inyo County Code is amended by adding the following section Q:

18.44.020 Principal Permitted Uses

Q. Mobile Food Facilities when operated in compliance with Chapter 18.61 and Chapter 7 of the Inyo County Code.

SECTION V: Section 18.54.020 of the Inyo County Code is amended by adding the following section K:

18.44.020 Principal Permitted Uses

K. Mobile Food Facilities when operated in compliance with Chapter 18.61 and Chapter 7 of the Inyo County Code.

SECTION VI. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this ordinance would be subsequently declared invalid or unconstitutional.

SECTION VII. Effective date.

This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption thereof, a summary of this Ordinance shall be published once in a newspaper of general circulation printed and published in the County of Inyo, State of California in accordance with Government Code Section 25124(b). The Clerk of the Board is hereby instructed and ordered to so publish a summary of this Ordinance together with the names of the Supervisors voting for and against same.

PASSED AND ADOPTED this XXXX by the following vote of the Inyo County Board of Supervisors:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chairperson

ATTEST: Nate Greenberg
 Clerk to the Board

By: _____
 Darcy Ellis, Assistant