



SUSTAINABLE FOOD POLICY BOARD

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TO: Honorable Lee Leffingwell, Mayor
Honorable Mike Martinez, Mayor Pro Tem
Members of Austin City Council

FROM: Austin/Travis County Sustainable Food Policy Board

DATE: September 21, 2010

SUBJECT: Recommendation to adopt temporary measure to allow hot foods at farmers' markets

The Sustainable Food Policy Board (SFPB) recommends that City Council adopt a temporary, but urgently needed, measure to allow local businesses to prepare and serve hot food at farmers' markets until State regulations are clarified.

As you know, Council approved a resolution on March 25, 2010, directing the City Manager "to study and present possible Code recommendations on a policy regarding hot food served on site at farmers' markets." Resolution 20100325-053. The SFPB requested expedited action to facilitate the serving of hot food at city farmers' markets on April 26, 2010. In response, city staff determined that it would be inappropriate for hot-food vendors at farmers' markets to permanently rely on temporary food establishment permits. Despite SFPB requests that tents used at the markets be adapted to meet health department safety standards, the city concluded that hot-food vendors only be permitted to use mobile vending units, commonly called food trailers, in order to sell hot-food regularly.

This proposal is infeasible. Vendors cannot afford to buy trailers to sell food for a few hours each week, nor do food trailers work for the design and culture of Austin's farmers' markets. Nearby cities, including Houston, San Antonio, and Sunset Valley have found a way to facilitate the open-air preparation and sale of hot foods at farmers' markets under existing state regulations, strengthening their local food economies on many levels.

The Sustainable Food Center, which operates three farmers' markets in the City of Austin, has reported a 40% increase in attendance at the markets when hot food is served. Producers report that their product sales are also up when hot food is served. Chefs source primary ingredients from the local farmers, boosting sales, then prepare the food on site, demonstrating how to use the ingredients with delicious tastes and aromas, thereby inspiring the ongoing purchase and consumption of the healthful local ingredients. Citizens of Austin wake up for the hot food, and end up supporting local farmers at the market.

City staff has notified farmers' markets that they may serve hot food under a temporary event permit no more than four times per year. This policy was memorialized in an amendment to the City code on April 29, 2010. Ordinance No. 20100429-028, at 10-3-1(B)(10)(a) ("A person or organization is allowed four temporary events in a calendar year.").



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The ordinance, with the principal purpose of allowing vendors at farmers' markets to give out free food samples, has effectively shut down local business endeavors and threatens to stunt the growth of Austin farmers' markets.

We believe there are solutions that would accommodate both the concerns of city staff and the needs of the local food economy. Food vendors need only utilize temporary food establishment permits at farmers' markets until state regulators clarify the permitting issue for farmers' markets. The state has begun a process to address the issue of permitting at farmers' markets and will likely confirm, as early as next Spring, that regular hot food service in the farmers' market setting be allowed. This will address city staff's concerns, but local businesses cannot wait .

In accordance with our charges, the SFPB requests an interim solution that will allow local businesses to operate until the state regulations are updated. We recommend that City Council delete the restriction on the number of temporary permits in the recent code amendment allowing the City Health Department to issue as many temporary permits as they believe safe until the clarified State regulations take effect. This restriction on the number of permits was not required by state law, as evidenced by the fact that the state permitting authorities (which operate in unincorporated areas of the state) impose no such restriction. We are eager, of course, to work with city staff and local businesses and markets in determining how frequently these permits should be issued in the coming months, finding a mutually agreeable number that will allow local businesses to survive.

We are deeply grateful for the city's support of the local food economy and respectfully recommend that Council amend the code and direct city staff to work with the Sustainable Food Policy Board and local businesses to find an interim solution to this permitting issue.

Sincerely,

A handwritten signature in black ink that reads "Paula J. McDermott".

Paula J. McDermott

Chairperson

Sustainable Food Policy Board