



LAND USE SERVICES DEPARTMENT PLANNING STAFF REPORT



HEARING DATE: August 7, 2014

AGENDA ITEM NO: 2

Project Description:

Applicant: Land Use Services Department
Proposal: Development Code Amendment to revise Chapter 85.19 relative to food truck events
Community: Countywide
Location: Countywide
Project No: P201400283
Staff: Christney Barilla

BACKGROUND:

On July 19, 2012, Ordinance 4170 amending the County's Development Code regarding Food Truck Event Permits became effective. Currently, Chapter 85.19 Food Truck Event Permits (FTEP), allows food trucks to operate only at designated, organized events at pre-approved fixed locations, subject to the operator obtaining an approved Food Truck Event Permit (FTEP).

The FTEP process is modeled after the special event permit process. The definition of a food truck event includes any food truck service regardless of number of attendees or location. Currently no provisions exist in the Code for small, incidental food truck uses. Employers, contractors and persons having private parties with a small number of attendees, have expressed a concern that the FTEP process is too restrictive and too costly. The proposed amendment to the Development code re-defines the Minor Food Truck Event and adds exemptions to the FTEP in order to address these concerns.

ANALYSIS:

The current land use regulation of food trucks is restrictive for small, incidental food truck usage.

The definitions and regulations for food trucks in the Development Code do not differentiate between food truck events that are open to the public and use of a food truck for a private use or event. The Development Code definition of a special event specifies that the event is a public gathering, but currently the Code does not make the same distinction for a food truck event. If a private party hires a food truck, or an employer or contractor brings a food truck to a site to serve on-site workers, a Food Truck Event Permit would be required under the current code.

SUMMARY:

Staff proposes to amend the Development Code to modify the definitions of major and minor food truck events to specify that events are open to the public, and to exclude private parties and other uses that are not open to the public. In addition, staff is recommending a minimum threshold of 100 attendees to require a permit. Therefore, an amendment is proposed to define the minor food

Action taken by the Planning Commission on this item may be appealed to the Board. Yes No
 Note: Recommendations to the Board of Supervisors are not appealable.

Revised 12/15/95

Development Code Amendment – Food Truck Events Amendment
August 7, 2014 Item # 2

Page 2 of 2

truck event as an event for 100 to 499 persons. The major food truck event is defined as an event for 500 or more persons.

Findings:

1. The proposed amendments are consistent with the General Plan and any applicable Community Plan or Specific Plan; County General Plan Policy ED 4.1 encourages activities that “promote commercial development that enhances the County’s economic base, particularly for small businesses, and provides jobs for its residents”; and
2. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the County because they are proposed concurrent with application procedures and safeguards to be implemented by DEHS to protect the public interest, health, safety convenience or welfare; and
3. The proposed amendments are internally consistent with other applicable provisions of this Development Code because they allow for additional business opportunities and a greater variety of dining choices for consumers throughout the County for private events, businesses, and public events with a minimum threshold attendance level; and
4. The proposed amendments are exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15304(e) of the CEQA Guidelines, as the proposed changes to the Development Code will provide for the permitting of Food Truck Events. The change in the Food Truck Events criteria will be for minor temporary uses of land having negligible or no permanent effects on the environment.

RECOMMENDATION: Staff recommends that the Planning Commission make the following recommendations to the Board of Supervisors:

- A. ADOPT the proposed Development Code amendments.
- B. ADOPT the findings as contained in the staff report;
- C. FILE a Notice of Exemption.

ATTACHMENTS:

1. Proposed Development Code Amendments
2. Proposed Draft Ordinance

ATTACHMENT 1

Proposed Development Code Amendments

CHAPTER 85.19 FOOD TRUCK EVENT PERMITS

Sections:

- 85.19.010 Purpose
- 85.19.020 Permit Required for Food Truck Events
- 85.19.030 When Application for Permit Must Be Submitted
- 85.19.040 Content of Application
- 85.19.050 Fees, Bonding, and Insurance
- 85.19.060 Request for Law Enforcement Services
- 85.19.070 Application Review Process
- 85.19.080 Review by Sheriff
- 85.19.090 Decision on Application
- 85.19.100 Expiration and Non-Transferability of Permit
- 85.19.110 Complaints
- 85.19.120 Suspension or Revocation of Permit
- 85.19.130 Other Prohibited Activities
- 85.19.140 Post-Decision Procedures
- 85.19.150 Clean-Up and Performance Security

85.18.010 Purpose

The purpose of this Chapter is to provide regulations for the establishment, operation, removal, and cleanup of Food Truck Events in the unincorporated areas of the County and which do not constitute a “land use” of sufficient magnitude or longevity to require permanent land use approval.

Adopted Ordinance 4170 (2012)

85.19.020 Permit Required for Food Truck Events

- (a) **Permit required.** Except as otherwise provided by the County Code or state or federal law, no person or entity shall advertise, conduct, maintain, operate, or provide admission for any Food Truck Event within the unincorporated areas of the County without possessing an unexpired, unsuspended, and unrevoked Food Truck Event permit from the Department for each Food Truck Event.
- (b) **Closure if no permit.** A Food Truck Event conducted without the required permit is subject to closure at any time during the event. It shall be the responsibility of the applicant to have the permit approval letter on-site during the event. The applicant, promoter of the event, business owner, and/or landowner may be liable for the costs of the agencies participating in the closure of the event.
- (c) **Exemptions.**

- (1) Any Food Truck Event that has received another land use approval (e.g., Conditional Use Permit or approved Community Event) to allow food trucks shall be exempt from the requirements of this Chapter.
- (2) Operation of a food truck serving fewer than 100 people shall be exempt from obtaining a food truck event permit, provided that the truck operates on private property with written authorization of the property owner.
- (3) Operation of a food truck hired by a private party or business for private use on private property shall be exempt from the requirements of this Chapter, regardless of the numbers of attendees.

(d) **Food Truck Events.** A Food Truck Event shall be classified as a Food Truck Event - Major or a Food Truck Event - Minor, as defined in County Code Section 810.01.080.

Adopted Ordinance 4170 (2012)

85.19.030 When Application for Permit Must Be Submitted

An application for a Food Truck Event permit must be submitted in a complete form at least 60 days in advance of the anticipated commencement of the Food Truck Event.

Adopted Ordinance 4170 (2012)

85.19.040 Content of Application

The applicant shall supply a site plan and other information the Department may reasonably require based upon the location, intensity, and level of services required for each proposed Food Truck Event. The applicant must show or provide, at a minimum, the following information:

- (a) Food Truck staging areas(s);
- (b) Trash receptacles;
- (c) Restrooms;
- (d) Temporary structures or tents;
- (e) Notation of land uses on adjacent properties;
- (f) Site lighting;
- (g) Fire protection, including location of fire hydrants and supplemental water sources;
- (h) Food concessions;
- (i) Inclement weather contingencies;

- (j) Medical/first aid facilities;
- (k) News releases required;
- (l) Noise impact(s) (An applicant's request to play or broadcast music, especially between the hours of 11:00 p.m. and 7:00 a.m., shall be evaluated and determined based on all relevant information including the following: the proximity to the nearest residence, business, or other occupied land use; the topography of the site and relevant surrounding area; and the time limits the music is proposed to be played);
- (m) Restoration of landscape;
- (n) Sanitary facilities;
- (o) Provisions for adequate ingress/egress and adequate parking including provisions for special traffic control measures, including the use of traffic enforcement officers, barricades, cones, signs, maps and any other traffic control devices of any type;
- (p) Topographical and ecological considerations and consideration of alternative sites; and
- (q) Water facilities.

Adopted Ordinance 4170 (2012)

85.19.050 Fees, Bonding, and Insurance

- (a) **Fees.** All estimated total fees and charges shall be deposited by the applicant with the affected department(s) at least 30 days before the scheduled occurrence of the Food Truck Event.
- (b) **Bonding and insurance.** The applicant may be required to provide sufficient liability insurance naming the County as an additional named insured. The insurance shall be sufficient to protect, defend, and indemnify the County, its agents, employees, officers, servants, and volunteers from and against any claim, damage, injury, liability, and loss of any nature arising out of, or in any way connected to, the Food Truck Event. The amount, quality, and type of the insurance shall be determined in compliance with the policy established by the Risk Management Department. The County may require a bond to be posted before the Food Truck Event to ensure that all conditions are met, including the cleanup and restoration of landscape.

Adopted Ordinance 4170 (2012)

85.19.060 Request for Law Enforcement Services

An applicant may request law enforcement services to preserve the peace at a Food Truck Event. The request shall be made in compliance with County Code Section 85.16.030(j).

Adopted Ordinance 4170 (2012)

85.19.070 Application Review Process

- (a) Upon receipt of a completed application, site plan, and all related fees, the Department shall consult with all applicable County, state, and federal agencies, which may include one or more of the departments or agencies described in County Code Section 85.16.030(a)(4) as well as any other relevant agency.
- (b) The Food Truck Event shall comply with the California Environmental Quality Act (CEQA). A review will determine whether the categorical exemptions in Sections 15301 and 15304 of the CEQA Guidelines are applicable. If the Food Truck Event has the potential to cause adverse environmental impacts, an environmental review of the proposed event shall be conducted in compliance with the County Code and CEQA, and an additional environmental review fee will be required.
- (c) After an environmental determination has been made, or if one is not required, the Director:
 - (1) May approve or deny the application; and/or
 - (2) May refer the application directly to the Planning Commission for consideration; and/or
 - (3) May require a Conditional Use Permit or other appropriate land use permit and approval where the magnitude or longevity of the use requires the permit and/or approval; and/or
 - (4) Shall notify the applicant of the Sheriff's determination, if the Sheriff has determined in compliance with Section 85.19.080 below, that no permit should be issued or should only be issued upon compliance with certain requirements or conditions; and/or
 - (5) May elevate the application for a Minor Food Truck Event to an application for a Major Food Truck Event because of the scope or other circumstances of the event.

Adopted Ordinance 4170 (2012)

85.19.080 Review by Sheriff

If the Director refers an application to the Sheriff's Department, the Sheriff's Department shall make a recommendation for the approval, disapproval, and/or necessary conditions for the approval of an application for a Food Truck Event permit, based on the criteria set forth in County Code Section 85.16.030(i).

Adopted Ordinance 4170 (2012)

85.19.090 Decision on Application

The decision to approve, to approve upon the compliance with certain additional requirements or conditions, or to deny an application, shall be based on the criteria set forth in County Code Subsections 85.16.030(h), (i), and (m).

Adopted Ordinance 4170 (2012)

85.19.100 Expiration and Non-Transferability of Permit

A Food Truck Event permit shall expire in compliance with the terms of the permit. A Food Truck Event permit shall not be transferable to any other date, organization, person, place, or time.

85.19.110 Complaints

Any person may file a complaint with the Department or the Sheriff regarding a Food Truck Event or may petition for a suspension or revocation of any Food Truck Event permit.

Adopted Ordinance 4170 (2012)

85.19.120 Suspension or Revocation of Permit

A permit may be suspended or revoked on any ground set forth in County Code Subsections 85.16.030(h), (i), or (m), and in compliance with the applicable procedures set forth in County Code subsections 85.16.030(m), (n), and (o), and in this Chapter.

Adopted Ordinance 4170 (2012)

85.19.130 Other Prohibited Activities

It shall be unlawful for any person to do any of the activities described in County Code Subsection 85.16.030(p) in conjunction with a Food Truck Event.

Adopted Ordinance 4170 (2012)

85.19.140 Post-Decision Procedures

In addition to the provisions specified in this Chapter, the procedures and requirements in Chapter 86.06 (Time Limitations), and those related to appeals and revocation in Division 6 (Development Code Administration), shall apply following a decision on an application for a Food Truck Event Permit or on a decision to suspend or revoke a Food Truck Event Permit or on any other decision or determination regarding a violation of this Chapter. The Board of Supervisors shall not make any decision on an application for a permit or a suspension or revocation of a permit or on any related appeal. In the case of a conflict, the provisions of this Chapter shall prevail.

Adopted Ordinance 4170 (2012)

85.19.150 Clean-Up and Performance Security

- (a) Each site occupied by a Food Truck Event shall be cleaned of debris, litter, or other evidence of the event on completion of the event, and shall thereafter be used in compliance with the provisions of this Development Code.
- (b) Performance security may be required before initiation of a Food Truck Event to ensure cleanup after the activity is finished, in compliance with Section 86.06.050 (Performance Guarantees).

Adopted Ordinance 4170 (2012)

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DIVISION 10

DEFINITIONS

Chapter 810.01	Definitions	10-3
810.01.010	Purpose	10-3
810.01.020	Definitions of Specialized Terms and Phrases	10-4
810.01.030	Definitions, “A.”	10-4
810.01.040	Definitions, “B.”	10-16
810.01.050	Definitions, “C.”	10-19
810.01.060	Definitions, “D.”	10-28
810.01.070	Definitions, “E.”	10-34
810.01.080	Definitions, “F.”	10-38
810.01.090	Definitions, “G.”	10-47
810.01.100	Definitions, “H.”	10-50
810.01.110	Definitions, “I.”	10-55
810.01.120	Definitions, “J.”	10-57
810.01.130	Definitions, “K.”	10-58
810.01.140	Definitions, “L.”	10-59
810.01.150	Definitions, “M.”	10-67
810.01.160	Definitions, “N.”	10-71
810.01.170	Definitions, “O.”	10-77
810.01.180	Definitions, “P.”	10-80
810.01.190	Definitions, “Q.”	10-87
810.01.200	Definitions, “R.”	10-88
810.01.210	Definitions, “S.”	10-97
810.01.220	Definitions, “T.”	10-112
810.01.230	Definitions, “U.”	10-116
810.01.240	Definitions, “V.”	10-117
810.01.250	Definitions, “W.”	10-119
810.01.260	Definitions, “X.”	10-123
810.01.270	Definitions, “Y.”	10-124
810.01.280	Definitions, “Z.”	10-125

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- (53) **Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (54) **Substantial Improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violation of state or local health, sanitary, or safety code specification that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure's continued designation a “historic structure.”
- (55) **Violation.** The failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
- (56) **Water surface elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(hh) **Flood Insurance Rate Map (FIRM).** See “Flood Hazard.”

(ii) **Floodplain.** See “Flood Hazard.”

(jj) **Floodplain Review Areas.** See “Flood Hazard.”

(kk) **Floodway.** See “Flood Hazard.”

(ll) **Flow Rate.** The rate in which the water flows through the pipes, valves, and emission devices of an irrigation system measured in gallons per minute, gallons per hour, or cubic feet per second.

(mm) **Flow Sensor.** A device within the irrigation system that detects irregular flows indicating leaks, breaks, or another problem.

(nn) **Food Truck Event – Major.** An event **open to the public**, other than a Community Event, where one or more mobile food facilities, as defined by the Environmental Health Services Division, operates at a designated single location, not to exceed one day, to sell or provide food to individuals, with an anticipated attendance of over 500 persons. A Major Event will be limited to six events per parcel per calendar year. A Major Event which takes place on both a Saturday and Sunday on one weekend will be considered one event, for the purposes of calculating the number of events per parcel.

- | **(oo) Food Truck Event – Minor.** An event **open to the public**, other than a Community Event, where one or more mobile food facilities, as defined by the Environmental Health Services Division, operates at a designated single location in either a single one-day event, or a recurring event on more than one day, not to exceed 36 consecutive months, to sell or provide food to individuals, with an anticipated attendance of **at least 100 but not more than 500 persons**.
- | **(pp) Food and Related Products Manufacturing.** See “Manufacturing Operations I and II.”
- | **(qq) Freestanding Lighting.** See “Lighting, Outdoor.”
- | **(rr) Freestanding Sign.** See “Sign.”
- | **(ss) Freeway.** Any dedicated or deeded public right of way to which the owners of abutting lands have no right or easement of access to or from their abutting lands. In addition, freeway shall include those rights of way designated by official action as freeways by the California State Highway Commission or the County Board of Supervisors. See “Road System.”
- | **(tt) Freight Container.** Container primarily used to transport goods on trucks, railroad cars, ships, aircraft or other forms of transportation.
- | **(uu) Front Lot Line.** See “Lot.”
- | **(vv) Front Wall.** The nearest wall of a building or other structure to the street upon which the building faces, but excluding cornices, canopies, eaves or any other architectural embellishments that may extend beyond the front wall, not to exceed a distance of four feet.
- | **(ww) Front Yard.** See “Yard.”
- | **(xx) Frontage, Lot.** See “Lot.”
- | **(yy) Frontage Road.** A minor street that is parallel to, and adjacent to, an arterial street or freeway, and that provides access to abutting properties and protection from through and fast traffic.
- | **(zz) Fuel Break.** Areas also known as greenbelts that separate communities or clusters of structures from native vegetation. Within the fuel break boundaries the vegetation is thinned out, pruned, modified or landscaped to effectively reduce the volume and flammability of fuel, thereby substantially reducing or preventing the rate of spread and intensity of wildland fires.
- | **(aaa) Fuel Dealer.** A retail trade establishment that sells fuel oil, butane, propane and liquefied petroleum gas (LPG), bottled or in bulk, to consumers.

ATTACHMENT 2

Proposed Draft Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA, AMENDING SUBSECTION
85.19.020(c) AND ADDING SUBSECTIONS 85.19.020(c)(1),
85.19.020(c)(2) and 85.19.020(c)(3) TO CHAPTER 85.19;
AMENDING SUBSECTIONS 810.01.080(nn) and 810.01.080
(oo) ALL OF TITLE 8 OF THE SAN BERNARDINO COUNTY
CODE, RELATING TO FOOD TRUCK EVENT PERMITS.**

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. The Board of Supervisors (Board) of the County of San Bernardino (County) finds that:

(a) This ordinance will provide needed revisions to the Development Code relative to Food Truck Event Permits. The amendment modifies the definitions of major and minor food truck events to exclude private parties and other uses that are not open to the public. In addition, the minimum threshold for attendance for public events is revised to state that public events involving fewer than 100 persons would not require a permit.

(b) Properly noticed public hearings have been held before the County Planning Commission and the Board pursuant to the Planning and Zoning Law of the State of California and the Development Code.

(c) This ordinance is exempt from the California Environmental Quality Act (CEQA), in accordance with Section 15061(b)(3) of the CEQA Guidelines, as the proposed changes to the Development Code do not have the potential to cause a significant effect on the environment.

(d) On August 7, 2014, the Planning Commission conducted a public hearing on this ordinance. Following the public hearing, the Planning Commission voted XXXXXX (XXXX Commissioners present) to recommend that the Board of Supervisors

approve the proposed amendments to the County Code.

(e) On XXXXX XX, 2014, the Board of Supervisors conducted a public hearing on this ordinance and XXXXXX the proposed amendments and voted in favor of adopting the ordinance.

SECTION 2. Subsection 85.19.020(c) is amended and Subsections 85.19.020(c)(1), 85.19.020(c)(2) and 85.19.020(c)(3) are added to Chapter 85.19 of Division 5 of Title 8 of the San Bernardino County Code to read:

85.19.020 Permit Required for Food Truck Events

(c) Exemptions.

(1) Any Food Truck Event that has received another land use approval (e.g., Conditional Use Permit or approved Community Event) to allow food trucks shall be exempt from the requirements of this Chapter.

(2) Operation of a food truck serving fewer than 100 people shall be exempt from obtaining a food truck event permit, provided that the truck operates on private property with written authorization of the property owner.

(3) Operation of a food truck hired by a private party or business for private use on private property shall be exempt from the requirements of this Chapter, regardless of the numbers of attendees.

SECTION 3. Subsection 810.01.080(nn) and (oo) of the San Bernardino County Code are amended to read:

810.01.080 Definitions “F”

(nn) Food Truck Event – Major. An event open to the public, other than Community Event, where one or more mobile food facilities, as defined by the Environmental Health Services Division, operates at a designated single location, not to exceed one day, to sell or provide food to individuals, with an anticipated attendance of

AYES: SUPERVISORS:

NOES: SUPERVISORS:

ABSENT: SUPERVISORS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this ____ day of _____, 2014.

LAURA H. WELCH, Clerk of the Board of Supervisors of the County of San Bernardino, State of California

Deputy

Approved as to Form:
JEAN-RENE BASLE
County Counsel

By: _____
KENNETH C. HARDY
Deputy County Counsel

Date: _____