



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

THROUGH: David N. Carmany, City Manager

FROM: Roxanne Diaz, City Attorney
Richard Thompson, Director of Community Development
Eric Haaland, Associate Planner

DATE: January 17, 2012

SUBJECT: Regulations for Mobile Food Trucks in the City of Manhattan Beach: Ordinance No. 2156 Establishing Regulations for the Operation of Food Trucks on Private Property and Ordinance No. 2157 Adding a New Chapter 3.68 Regarding Mobile Food Vendors on the Public Right-of-Way and Amending the Manhattan Beach Municipal Code

RECOMMENDATION:

Staff recommends that the City Council conduct the public hearing, take public testimony and: (i) waive full reading of Ordinance No. 2156, an Ordinance of the City of Manhattan Beach Establishing Regulations for the Operation of Food Trucks on Private Property and Amending the Manhattan Beach Municipal Code, by introducing and read by title only; (ii) discuss and provide direction on Ordinance No. 2157, an Ordinance of the City of Manhattan Beach Adding a New Chapter Regarding Mobile Food Vendors and Further Amending the Manhattan Beach Municipal Code. Alternatively, the City Council may also introduce this ordinance as well.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its regular meetings of October 26, and December 14, 2011, considered a proposed Zoning Code Amendment pertaining to regulations for food trucks on private property. The Planning Commission approved (5-0 vote) Resolution No. PC 11-15 recommending that food truck events generally located outside of the beach area be allowed subject to temporary use permit approval and a variety of criteria. Additionally, the Commission received and discussed testimony and information regarding food trucks operating on public streets, which was in anticipation of the City Council's review of the matter, since regulating public property is generally not within the Planning Commission's authority. The Planning Commission did express opinions that food trucks on streets should be discouraged or limited in the beach area, be operated safely, and not create a perception of permanency. The Commission's Zoning Code Amendment recommendation is incorporated into the attached Ordinance No. 2156 for City Council approval.

Resolution No. PC 11-15, Planning Commission reports/minutes, and related reference materials are also attached to this report.

Food truck vendors that operate on public streets are governed by both State and local laws with regard to vehicle regulations, such as no parking zones, parking time limits, etc., which apply to all vehicles equally. All food truck vendors that operate on City streets must comply with these generally applicable regulations.

The California Vehicle Code also contains regulations that allow cities to regulate mobile food vending to protect the public safety. Vehicle Code Section 22455 provides that a local authority may, by ordinance or resolution, adopt additional requirements for the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon any street. In addition, Article XI, section 7 of the California Constitution extends to cities the police power authority to regulate in furtherance of public health and welfare. Cities, however, are prevented from banning vending in its entirety from vehicles on city streets.

Recent popularity in gourmet food trucks, and changes in state laws regarding a city's regulation of such vehicles have caused many cities to reconsider their applicable regulations. Many cities have had longstanding requirements for permits, time limits, and locational restrictions that apply to a variety of peddlers, including those that vend from non-motorized vehicles and some cities have found those regulations to be out of date.

At the Planning Commission meetings, specific items discussed by both the Commissioners and public speakers that the Commission felt should be addressed in a proposed ordinance included the following categories: vehicle and pedestrian obstructions, noise, trash, restroom access, street slope, signs on sidewalks, and parking/safety issues applicable to certain locations. There was also discussion regarding California Health and Safety Code Section 114315 which requires vehicles parked over one hour to have access to an approved restroom for employees within 200 feet. The City's Municipal Code also prohibits vehicles from occupying multiple spaces, which is a common practice for food trucks. A list of similar food truck questions and answers generated during the Planning Commission's review is also included in the attached material.

There has been at least one recurring case of a food truck operating on downtown Manhattan Beach streets that has received attention. An association of food truck operators has been actively representing their interests.

The following provides a summary of the proposed regulations set forth in the two ordinances for the City Council's consideration.

Food Trucks on Private Property

Food Truck operation in off-street situations is what the Planning Commission primarily addressed during its review. At least one School District sponsored event featuring a group of food trucks occurred on school property last year.

The recommended zoning amendment contained within Resolution No. PC 11-15 creates a Temporary Use classification for “Food Truck Sales”, occurring on private property in commercial, industrial, and other non-residential zones. This use would be permitted in parking lots in the Community Commercial, Commercial General, Industrial, and Public and Semi-public districts as shown in the corresponding land use regulation tables of the Zoning Code. It would also be permitted in most Planned Development locations as it is common practice to apply the most closely corresponding standards (e.g., CG for a retail center) in that zone, since it has no pre-established specific regulations.

The use classification proposed for Food Truck Sales is defined as sales of prepared food from vehicles for a maximum 30 days per year for any single location. This time period appears to represent what is considered appropriate for a temporary use, being consistent with existing temporary use permit language (Section 10.84.110(E)) that already limits a single permit to a 30 day period. It is expected that Food Truck Sales events will be spread out over a period of time, probably a series of weekends.

Section 10.84.110 of the zoning code provides the procedures and requirements for approving temporary use permits. These include the 30-day time limit, required findings, and imposition of conditions. Every temporary use permit must be reviewed and conditioned by Community Development, Police, Fire, and Public Works Departments, to be safe and non-disruptive to the surrounding area. During this process staff would confirm the Health Department, parking, circulation, and sanitation compliance for each Food Truck Sales event. These criteria for approving Food Truck Sales event permits are included in Resolution No. PC 11-15. In addition, the proposed regulations require an operator to provide staff with information regarding vehicle and pedestrian circulation at the proposed site, lighting and potential noise so that staff can evaluate the temporary use in relationship to any impacts it may have at the site. Standards limiting starting time to 10am, closing time to 9pm, and daily frequency to 3 days per week, are also included. The Planning Commission emphasized criteria that permit reviews include verification of parking adequacy, Health Department compliance, restroom compliance, and proper waste disposal.

Since the Commission had discussed how public school events ordinarily do not require City permits, informational language is included with the temporary use permit criteria clarifying that business licenses are required for individual Food Trucks at such events even though temporary use permits are not.

Food Truck Sales are specifically not permitted in the coastal zone (e.g., CD, CNE, CL) as suggested by the Planning Commission. Residential zones, Open Space zones, and inland CL (Local Commercial) zones would also not be permitted areas for Food Truck Sales. Temporary use permits for “Street Fairs” in many areas citywide (including CD, CNE, & CL zones) may continue to include food truck components as is currently permitted.

Staff is recommending that the City Council proceed with introducing the proposed ordinance regulating food trucks on private property.

Food Trucks on Public Streets

The Planning Commission's purview on this item was to review amendments to the City's zoning code, which regulate the use of private property and not regulation of food trucks on public streets. The City Attorney's office has prepared an ordinance regulating food trucks on public streets. Staff is recommending that the City Council review the ordinance, take testimony, and provide direction. A summary of the ordinance is provided below.

The proposed ordinance contemplates a new Chapter being added to the City Code that sets forth standards that mobile food vendors must adhere to while in the public right of way. These standards and criteria include: compliance with all parking and Vehicle Code provisions, ensuring that the food truck is not parked so as to obstruct pedestrian or vehicular traffic or unsafely obstruct visibility, and staying at least 300 feet away from school facilities. Provisions are also included to ensure that patrons are not encouraged to be in the street in order to obtain the food products from the truck such as a provision that the vendor may not distribute food from the side of the truck that is exposed to the street and/or traffic.

In addition, provisions have been included to ensure that trash is picked up and the area is cleaned before a food truck leaves its location. A provision requiring verification that a food truck has access to utilize restrooms within 200 feet from where their products are sold is included if the food truck stays at the location for more than one hour. This verification is to be kept within the vehicle and is to be available for inspection while the vehicle is vending its products.

Last, a food truck must comply with all applicable state and local laws including obtaining a valid business license and any permits required by the Los Angeles County Health Department. Staff will be bringing the City Council an ordinance to update the City's current Health Code, which has adopted by reference the Los Angeles County Health Code. The City has not updated its Health Code since 1997 and since this update will cover more than just mobile food vendors, and therefore we will separately bring this ordinance for the Council's consideration.

It should be noted that the proposed ordinance also made revisions to the City's current regulations regarding the parking and standing of peddlers to delete out-of-date provisions and also references to vehicles, as mobile vending would be covered by Chapter 3.68.

If the City Council desires, it may move forward with the proposed ordinance regulating food trucks on public street as presented.

After introduction of Ordinance Nos. 2156 and 2157, staff would return for City Council adoption at the February 21, 2012, meeting.

Attachments:

- A. Ordinance Nos. 2156 & 2157
- B. Planning Commission Resolution No. PC 11-15
- C. P.C. Minutes excerpts, dated 10/26/11 & 12/14/11.
- D. P.C. Reports, dated 10/26/11 including attachments.

- C: Food Truck Association
Downtown Business Association
Chamber of Commerce

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ORDINANCE NO. 2156

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
ESTABLISHING REGULATIONS FOR THE OPERATION OF FOOD
TRUCKS ON PRIVATE PROPERTY AND AMENDING THE
MANHATTAN BEACH MUNICIPAL CODE

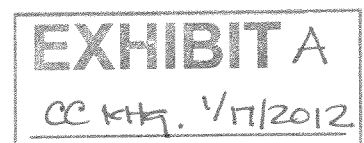
THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council finds and determines as follows:

- A. At regular meetings on October 26 and December 14, 2011, the Planning Commission held duly noticed public hearings and considered a proposed amendment to the City's Zoning Code regarding the operation of food trucks on private property.
- B. At the December 14, 2011 meeting, the Planning Commission reviewed amendments to Title 10 and approved Resolution PC 11-15 and recommended that the City Council adopt the zoning text amendments therein.
- C. In accordance with state law, all of the public hearings before the Planning Commission were noticed in *The Beach Reporter*, a newspaper of general circulation in Manhattan Beach.
- D. The City Council held a duly noticed public hearing on the matter at the January 17, 2012 City Council meetings. Evidence, both written and oral, was presented during the hearing.
- E. The City Council finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment, since it merely clarifies procedures for approving intermittent food truck operations within existing non-residential developments. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.
- F. The proposed amendments to Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code are consistent with and will advance the following goals and policies of the Manhattan Beach General Plan:

Goal LU-3: Achieve a strong, positive community aesthetic.

Policy LU-6-3: Recognize the need for a variety of commercial development types and designate areas appropriate for each. Encourage development proposals that meet the intent of these designations.



Section 2. Section 10.08.080 (Temporary use classifications) of Chapter 10.08 (Use classifications) of Part I (General Provisions) of Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code is hereby amended to add the following as an additional temporary use classification:

“J. Food Truck Sales. Sales of prepared food (including food that is displayed, offered for sale, bartered, exchanged or otherwise given) from vehicles in a non-residential parking area for no more than 30 days per calendar year.

Section 3. The “Temporary Uses” portion of the table in Section 10.16.020 (CL, CC, CG, CD, and CNE Districts: Land Use Regulations) of Chapter 10.16 (C Commercial Districts) of Part II (Base District Regulations) of Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code is hereby amended to read as follows:

	CL	CC	CG	CD	CNE	Additional Regulations
Temporary Uses						(G)
Animal Shows	-	-	U	-	-	
Christmas Tree Sales/Pumpkin Sales	P	P	P	P	P	
Circuses and Carnivals	-	U	-	U	U	
Commercial Filming, Limited	-	U	U	U	U	
<u>Food Truck Sales</u>	-	<u>U</u>	<u>U</u>	-	-	
New Year's Eve	U	U	U	U	U	
Real Estate Sales	P	P	P	P	P	
Retail Sales, Outdoor	P	P	P	P	P	
Street Fairs	U	U	U	U	U	
Trade Fairs	-	U	U	-	-	

Section 4. The “Temporary Uses” portion of the table in Section 10.20.020 (IP District: Land Use Regulations) of Chapter 10.20 (I Industrial Districts) of Part II (Base District Regulations) of Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code is hereby amended to read as follows:

	IP	Additional Regulations
Temporary Uses		
<u>Food Truck Sales</u>	<u>U</u>	(E)
Real Estate Sales	P	
Trade Fairs	U	(E)

Section 5. The “Temporary Uses” portion of the table in Section 10.28.030 (Land use regulations) of Chapter 10.28 (PS Public and Semipublic District) of Part II (Base District

Regulations) of Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code is hereby amended to read as follows:

	PS	Additional Regulations
Temporary Uses		(A)
Animal Shows	U	
Christmas Tree/Pumpkin Sales	P	
Circuses and Carnivals	U	
Commercial Filming, Limited	U	
Food Truck Sales	U	
Trade Fairs	U	

Section 6. Section 10.84.110 (Temporary use permits) of Chapter 10.84 (Use Permits, Variances and Minor Exceptions) of Part V (Administrative Regulations) of Title 10 (Planning and Zoning) of the Manhattan Beach Municipal Code is hereby amended to read as follows:

“A temporary use permit authorizing certain temporary use classifications, as defined in Chapter 10.08 of this title and as listed in the land-use regulations for the base districts in which the use will be located, shall be subject to the following provisions:

- A. **Application and Fee.** A completed application form and the required fee shall be submitted to the Community Development Director. The Community Development Director may request any other plans and materials necessary to assess the potential impacts of the proposed temporary use.
- B. **Duties of the Community Development Director.** The Community Development Director shall approve, approve with conditions, or deny a complete application within a reasonable time. Such approval shall consider and incorporate comments from Police, Fire, Public Works, and other relevant reviewing bodies. No notice or public hearing shall be required.
- C. **Required Findings.** The application shall be approved as submitted, or in modified form, if the Community Development Director finds:
1. That the proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan and the provisions of this title; and
 2. That approval of the application will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare.
- D. **Conditions of Approval.** In approving a temporary use permit, the Community Development Director may impose reasonable conditions necessary to:
1. Achieve the general purposes of this title and the specific purposes of the zoning district in which the temporary use will be located, or to be consistent with the General Plan;
 2. Protect the public health, safety, and general welfare; or
 3. Ensure operation and maintenance of the temporary use in a manner compatible with existing uses on adjoining properties and in the surrounding area.
- E. **Effective Date—Duration—Appeals.** An approved temporary use permit shall be effective on the date specified in its approval; a disapproved permit may be appealed by the applicant, as provided in Chapter 10.100 of this title. The permit shall be valid for a specified time period not to exceed thirty (30) days. A temporary use permit shall lapse if not used within the dates approved and may be revoked by the Community Development Director effective immediately upon verbal or written notice for violation of the terms of the permit. Verbal notice shall be confirmed by written notice mailed to the permit holder within a reasonable time. The Community Development Director may approve changes in a temporary use permit.
1. **Exceptions:**

- a) A Christmas tree/pumpkin sales temporary use permit may exceed thirty (30) days but shall be valid only during the time period in which the activity is taking place.
- b) New Year's Eve hours of operation extensions shall only be valid until 1:00 a.m. for the one (1) time/day requested. The applicant may apply annually for a temporary use permit to request extended New Year's hours.
- c) Food Truck Sales may not operate more than three days per week on any single property."

- F. **Standards for Food Truck Sales.** No temporary use permit shall be issued for Food Truck Sales unless the Community Development Director determines that the following standards or requirements have been met:
1. Food trucks may not operate more than three days per week on any single property.
 2. Food Truck Sales shall occur only within the hours of 10:00 a.m. and 9:00 p.m. of the same day.
 3. Food trucks (including those operated at events on public school property) shall maintain a valid Los Angeles County Department of Health permit and a valid City business license.
 4. Maintenance of a clearly designated waste receptacles in the immediate vicinity of the Food Truck Sales.
 5. If Food Truck Sales occur for more than one hour at the location, provision of a letter or other written documentation verifying that employees and customers of the food truck have permission to use a readily available toilet and hand washing facility that is located within two hundred feet travel distance from the location where the vehicle engaged in Food Truck Sales is parked and otherwise complies the California Health Code standards.
 6. Plans or other documents satisfactory to the Community Development Director that depict proposed vehicle and pedestrian circulation at the site for both the temporary Food Truck Sale use and existing uses, the proposed parking plan, the proposed lighting plan and how noise will be controlled at the site. In addition to the findings set forth in paragraph C, the Community Development Director shall make a finding that the proposed Food Truck Sales will not be located, operated or maintained in a manner that impedes vehicular and pedestrian circulation at the proposed site.

Section 7. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 8. The City Clerk shall cause a summary of this Ordinance to be published in accordance with Section 36933 of the Government Code, and shall certify to the adoption of this Ordinance.

Section 9. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

PASSED, APPROVED AND ADOPTED this ____ of _____, 2012.

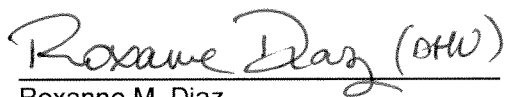
AYES:
NOES:
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ABSTAIN:

Mayor Nicholas W. Tell, Jr.
City of Manhattan Beach, California

ATTEST:

Liza Tamura
City Clerk

APPROVED AS TO FORM:



Roxanne M. Diaz
City Attorney

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ORDINANCE NO. 2157

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MANHATTAN BEACH, CALIFORNIA, ADDING A NEW CHAPTER
REGARDING MOBILE FOOD VENDORS AND FURTHER AMENDING
THE MANHATTAN BEACH MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. The Manhattan Beach City Council hereby finds as follows:

A. The California Vehicle Code Section 22455 allows municipalities to regulate mobile food vending in order to protect public safety and Article XI, section 7 of the California Constitution extends to municipalities the police power authority regulate in furtherance of public health and welfare.

B. The City is extremely dense with a land area of just 3.93 square miles and a population of approximately thirty-four thousand people. Moreover, the combination of an oceanside location, fine climate, and the availability of urban facilities, services and entertainment make the City an extremely desirable place to work or visit. Consequently, a large number of nonresidents come into the City to work or recreate each day, which further contributes to population density and vehicular and pedestrian congestion.

C. Mobile food vending and catering trucks create the potential for safety hazards, such as but not limited to, encouraging pedestrians to cross mid-block to purchase food.

D. The act of looking for prospective buyers while operating a mobile food vending vehicle makes the operator less attentive to pedestrian and vehicular traffic. When done on public roadways, this poses obvious traffic and safety risks to the public which the City seeks to prevent.

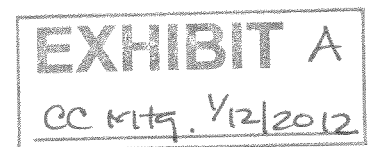
E. Mobile food vendors who fail to park their vehicles correctly during a transaction attract prospective buyers onto public roadways, creating a further traffic and public safety hazard.

F. The City has an important and substantial public interest in providing regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

Section 2. A new Chapter 3.68 is hereby added to Title 3 of the Manhattan Beach Municipal Code to read as follows:

“Chapter 3.68. Mobile Food Vendors.

3.68.010. Authority. Chapter 3.68 is adopted pursuant to the authority granted to the City of Manhattan Beach by Section 22455 of the California Vehicle Code, which permits local authorities 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.



3.68.020. Definitions. For purposes of this Chapter, the following words or phrases shall have the following meanings:

- A. Food or Food Products. Any type of edible substance or beverage.
- B. Mobile Food Vendor. A person that operates or assists in the operation of a vending vehicle.
- C. Vend or Vending. To sell, offer for sale, display, barter, exchange, or otherwise give food or food products from a vending vehicle.
- D. Vendor. A person who vends, including an employee or agent of a vendor.
- E. Vending Vehicle. Any self-propelled, motorized device or vehicle by which any person or property may be propelled or moved upon a highway, excepting a device moved exclusively by human power, or which may be drawn or towed by a self-propelled, motorized vehicle, from which food or food products are sold, offered for sale, displayed, bartered, exchanged or otherwise given.

3.68.030. Mobile Food Vendors In The Right of Way. A mobile food vendor may locate its vehicle in the public right-of-way as long as the mobile food vendor adheres to the following standards and conditions:

- A. The vending vehicle is in full compliance with all parking and Vehicle Code provisions which apply to the location at which it is parked.
- B. The vending vehicle does not obstruct pedestrian or vehicular traffic.
- C. The vending vehicle does not unsafely obstruct visibility for traffic or pedestrians or otherwise create an unsafe condition.
- D. Vending is prohibited on the exposed street and/or traffic side of the vending vehicle.
- E. The mobile food vendor shall not distribute any item from the vending vehicle in a manner that causes any person to stand in that portion of the street that is between the vehicle and the center of the street.
- F. The mobile food vendor shall not encroach onto a public sidewalk with any part of its vending vehicle or any other equipment or furniture related to the operation of its business.
- G. The mobile food vendor shall not keep, maintain or operate any vending vehicle upon any public street within 300 feet of the nearest property line of any property on which a school building is located between the hours of seven a.m. (7:00 a.m.) and five p.m. (5:00 p.m.) of any school day. This prohibition will not apply if the school principal gives the mobile food vendor written permission to park on school property. The mobile food vendor shall provide a copy of that authorization to the City within five days of its receipt.
- H. The mobile food vendor has a valid business license from the City.

I. The mobile food vendor has a valid permit, certificate of other required approval from the Los Angeles County Department of Health.

J. All food products sold or provided from the vending vehicle shall comply with all applicable food labeling requirements established by the State of California and the mobile food vendor must obtain all required permits, including without limitation, health permits, to sell or provide such items.

K. No mobile food vendor shall engage in vending unless he or she maintains a clearly designated litter receptacle in the immediate vicinity of the vending vehicle, marked with a sign requesting use by patrons. Prior to leaving the location, the mobile food vendor shall pick up, remove and dispose of all trash or refuse, including trash and refuse from the area within a 25-foot radius of the location where mobile food vending is occurring.

K. The vending vehicle shall not operate within 25 feet of any street intersection controlled by a crosswalk, traffic light, or stop sign.

L. No mobile food vendor shall vend from any vending vehicle for more than one hour unless the mobile food vendor and the vendor's customers have permission to use an approved and readily available toilet and hand washing facility that is located within two hundred feet travel distance from the location where the food or food products are offered for sale or sold. If the toilet and hand washing facility is privately owned, the mobile food vendor shall obtain written permission from the owner or authorized agent, and a copy of the written permission shall be kept in the vehicle and available for inspection at all times while vending. The vendor shall clearly post on the vehicle, within three feet of the opening in the vehicle through which food or food products are offered for sale or sold and visible to customers, a notice stating that (1) a toilet and hand washing facility has been made available as required by this subsection and (2) the location of that facility. Prior to commencing vending, the peddler shall file a "facilities report" with the City, on a form provided by the City, listing all toilet and hand washing facilities that the vendor will be utilizing to fulfill the vendor's obligations under this subsection, and attach thereto a copy of each required written permission. An approved facilities report must be on file with the City before a business license will be issued or renewed. A revised facilities report shall be filed with the City (1) before the vendor may utilize any toilet and hand washing facilities not itemized on the current facilities report, and (2) within 10 days of the date permission to use a toilet and hand washing facility is revoked, cancelled or expires. To the extent state law imposes a stricter standard, state law shall apply.

3.68.040. Compliance with State and Local Laws.

A. Mobile food vendors shall comply with all applicable state and local laws.

B. This Chapter is not intended to be enforced against pedestrian food vendors or against food vendors who operate human powered push carts and other non self-propelled vehicles. Such vendors may be regulated by other Chapters in this Code of by other state or local laws.

Section 3. Section 14.36.130 of the Manhattan Beach Municipal Code is hereby amended in its entirety to read as follows:

"14.36.130 - Unlawful parking—Peddlers, vendors.

A. Except as otherwise provided in this section no person shall stand or park any ~~vehicle, wagon or pushcart~~ from which goods, wares, merchandise, fruits, vegetables or food stuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, ~~or any lunch wagon or eating car or vehicle,~~ on any portion of any street, including parkways and sidewalks, within this City except that such ~~vehicles, wagons or pushcarts~~ may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten (10) minutes at any one place, ~~provided two lanes of unobstructed travel remain, one lane in each direction.~~ The ~~provisions of this subsection shall not apply to persons delivering such articles upon order of, or by agreement with a customer from a store or other fixed place of business or distribution.~~

B. No person shall park or stand on any street, including parkways and sidewalks, any ~~lunch wagon, eating cart or vehicle,~~ or pushcart from which tamales, peanuts, popcorn, candy, ice cream or other articles of food are sold or offered for sale without first obtaining a written permit to do so from the Chief of Police, which shall designate the specific location in which such cart shall stand.

~~C. No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written permit to do so from the Chief of Police which shall designate the specific location where such vehicle may stand.~~

C.D. Whenever any permit is granted under the provisions of this section and a particular location to stand is specified therein, no person shall stand any wagon or pushcart on any location other than as designated in such permit. In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section, such permit shall be forthwith revoked by the Chief of Police upon the filing of the record of such conviction with such officer and no permit shall thereafter be issued to such person until six (6) months have elapsed from the date of such revocation.

Whenever any permit is granted under the provisions of this section and a particular location to park or stand is specified therein, no person shall park or stand any ~~vehicle,~~ wagon, or pushcart on any location other than as designated in such permit. In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section, such permit shall be forthwith revoked by the Chief of Police upon the filing of the record of such conviction with such officer and no permit shall thereafter be issued to such person until six (6) months have elapsed from the date of such revocation.

D.E. The fee for any permit issued under this section shall be established by Council under separate resolution."

Section 4. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment. The Ordinance is therefore exempt from the environmental review requirements of the

California Environmental Quality Act pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 6. The City Clerk shall cause this ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code, shall certify to the adoption of this ordinance.

Section 7. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

PASSED, APPROVED AND ADOPTED this ____ of _____, 2012.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Nicholas W. Tell, Jr.
City of Manhattan Beach, California

ATTEST:

Liza Tamura, City Clerk

APPROVED AS TO FORM:

Roxanne Diaz (DHU)
Roxanne M. Diaz, City Attorney

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RESOLUTION NO. PC 11-15

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MANHATTAN BEACH, CALIFORNIA
RECOMMENDING AMENDMENTS TO THE
MANHATTAN BEACH MUNICIPAL CODE TITLE 10
(ZONING ORDINANCE) PERTAINING TO
REGULATING FOOD TRUCKS ON PRIVATE
PROPERTY**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES
HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The Planning Commission hereby makes the following findings:

- A. The Planning Commission conducted a public hearing pursuant to applicable law to consider amendments to Section 10.60.160 of Title 10 of the Manhattan Beach Municipal Code.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received on December 14, 2011.
- C. The proposed project will not have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- D. The proposal is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment.
- E. The proposed amendments are consistent with the goals and policies of the City's General Plan and Local Coastal Program and with the purposes of Title 10 (Zoning Ordinance) of the Manhattan Beach Municipal Code.
- F. The 2011 Manhattan Beach City Council Work Plan includes an item to review and update City regulations pertaining to the operation of Food Trucks;
- G. The regulation of Food Trucks on private property is implemented by the Zoning Ordinance, where it is the authority of the Planning Commission to recommend an amendment;
- H. The Planning Commission heard testimony regarding Food Trucks on public streets, which are regulated by Municipal Code Titles other than the Zoning Ordinance, whose amendment will be considered under City Council authority;
- I. It is appropriate to regulate Food Trucks on private property as temporary uses subject to parking, circulation, Health Department Certification, and sanitation requirements;
- J. Establishment of "Food Truck Sales" as a temporary use provides such events and operations a more practical permitting process than the current requirement for a "Street Fair" temporary use permit for each individual occurrence of Food Truck activity;
- K. It is not appropriate to encourage Food Truck sales on private property in Area Districts III and IV (beach area) of the City of Manhattan Beach since these properties are typically small in area with small or no on-site parking areas, parking supply relative to demand at peak periods is severely low; and vehicle and pedestrian congestion at peak periods is severely high.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby recommends approval of the subject amendments to the Manhattan Beach Municipal Code and the Local Coastal Program as follows:

Amend Section 10.08.080 of Title 10 and A.08.080 to the Implementation Program of the Local Coastal Program as follows:

10.08.080 - Temporary use classifications.

A. Animal Shows. Exhibitions of domestic or large animals for a maximum of 7 days.

B. Christmas Tree/Pumpkin Sales. Outdoor retail sales of Christmas trees between Thanksgiving and December 26, and, pumpkins between September 30 and November 1.

C. Circuses and Carnivals. Provision of games, eating and drinking facilities, live entertainment, animal exhibitions, or similar activities in a tent or other temporary structure for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility.

D. Commercial Filming, Limited. Commercial motion picture or video photography at the same location 6 or fewer days per quarter of a calendar year.

E. Real Estate Sales. An office for the marketing, sales, or rental of residential, commercial, or industrial development.

F. Retail Sales, Outdoor. Retail sales of new merchandise on the site of, and operated by, a legally established retail business for a period not to exceed 48 hours no more than once every 3 months.

G. Street Fairs. Provision of games, eating and drinking facilities, live entertainment, or similar activities not requiring the use of roofed structures.

H. Trade Fairs. Display and sale of goods or equipment related to a specific trade or industry for a maximum period of 5 days.

I. New Year's Eve. Extension of hours of operation for all restaurants, bars, hotels, facilities within hotels, and similar commercial businesses to remain open until 1:00 a.m. on New Year's Day.

J. Food Truck Sales. Sales of prepared food from vehicles in a non-residential parking area for no more than 30 days per calendar year.

1 Amend the "Temporary Uses" portion of the "Commercial Land Use Regulations" table
 2 of Section 10.16.020 of Title 10 as follows:

	CL	CC	CG	CD	CNE	Additional Regulations
3						
4						
5	Temporary Uses					(G)
6	-	-	U	-	-	
7	P	P	P	P	P	
8	-	U	-	U	U	
9	-	U	U	U	U	
10	U	U	U	U	U	
11	P	P	P	P	P	
12	P	P	P	P	P	
13	U	U	U	U	U	
14	-	U	U	-	-	
15	-	U	U	-	-	

15 Amend the "Temporary Uses" portion of the "Industrial Land Use Regulations" table of
 16 Section 10.20.020 of Title 10 as follows:

	IP	Additional Regulations
17		
18		
19	Temporary Uses	
20	P	
21	U	(E)
22	U	(E)

32

Amend the “Temporary Uses” portion of the “Public and Semi-Public Land Use Regulations” table of Section 10.28.020 of Title 10 as follows:

	PS	Additional Regulations
Temporary Uses		(A)
Animal Shows	U	
Christmas Tree/Pumpkin Sales	P	
Circuses and Carnivals	U	
Commercial Filming, Limited	U	
Trade Fairs	U	
Food Truck Sales	U	

Amend Section 10.84.110 “Temporary use permits” of Title 10 as follows:

10.84.110 - Temporary use permits.

A temporary use permit authorizing certain temporary use classifications, as defined in Chapter 10.08 of this title and as listed in the land-use regulations for the base districts in which the use will be located, shall be subject to the following provisions:

A. Application and Fee. A completed application form and the required fee shall be submitted to the Community Development Director. The Community Development Director may request any other plans and materials necessary to assess the potential impacts of the proposed temporary use.

B. Duties of the Community Development Director. The Community Development Director shall approve, approve with conditions, or deny a complete application within a reasonable time. Such approval shall consider and incorporate comments from Police, Fire, Public Works, and other relevant reviewing bodies. No notice or public hearing shall be required.

C. Required Findings. The application shall be approved as submitted, or in modified form, if the Community Development Director finds:

1. That the proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan and the provisions of this title; and
2. That approval of the application will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare.

1 D. Conditions of Approval. In approving a temporary use permit, the Community Development
2 Director may impose reasonable conditions necessary to:

- 3 1. Achieve the general purposes of this title and the specific purposes of the zoning district
4 in which the temporary use will be located, or to be consistent with the General Plan;
5 2. Protect the public health, safety, and general welfare; or
6 3. Ensure operation and maintenance of the temporary use in a manner compatible with
7 existing uses on adjoining properties and in the surrounding area.

8 E. Food Truck Criteria. In approving a temporary use permit for Food Truck Sales, the
9 Community Development Director shall require:

- 10 1. Operation not to exceed more than 3 days per week, and hours of 10:00 am to 9:00 pm.
11 2. Verification of County Health Department certification, and City Business Licenses.
12 Private Food Trucks operating at events at public schools that are not subject to City
13 permits are subject to City business licenses.
14 3. Verification of restroom access, proper waste disposal facilities, and adequate security.
15 Food Trucks parked more than one hour shall provide a letter from a business within
16 200 feet allowing Food Truck employees to use restrooms in compliance with
17 California Health Code standards.
18 4. Verification of adequate parking (for both the temporary and permanent uses on the
19 site), circulation, noise control, glare prevention, and aesthetic appropriateness. Plans
20 and materials demonstrating protection of surrounding vehicular and pedestrian
21 circulation, and parking shall be provided.

22 F. Effective Date—Duration—Appeals. An approved temporary use permit shall be effective
23 on the date specified in its approval; a disapproved permit may be appealed by the applicant, as
24 provided in Chapter 10.100 of this title. The permit shall be valid for a specified time period
25 not to exceed thirty (30) days. A temporary use permit shall lapse if not used within the dates
26 approved and may be revoked by the Community Development Director effective immediately
27 upon verbal or written notice for violation of the terms of the permit. Verbal notice shall be
28 confirmed by written notice mailed to the permit holder within a reasonable time. The
29 Community Development Director may approve changes in a temporary use permit.


30 Exceptions:

- 31 1. A Christmas tree/pumpkin sales temporary use permit may exceed thirty (30) days but
32 shall be valid only during the time period in which the activity is taking place.
33 2. New Year's Eve hours of operation extensions shall only be valid until 1:00 a.m. for the
34 one (1) time/day requested. The applicant may apply annually for a temporary use
35 permit to request extended New Year's hours.


SECTION 3. The Secretary to the Planning Commission shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.


PASSED, APPROVED, and ADOPTED this 14th day of December, 2011.

Ayes: Andreani, Conaway, Gross, Seville-Jones
Chairperson Paralusz
Noes: None
Absent: None
Abstain: None



Richard Thompson
Secretary to the Planning Commission



Sarah Boeschen
Recording Secretary 

**EXCERPTS FROM THE FINAL PLANNING COMMISSION MEETING
MINUTES OF OCTOBER 26, 2011**

commented that having the site remain vacant is an economic impact to the property owner. She said that she feels the City should not interfere with property rights to the extent possible.

In response to a comment from Chairperson Paralusz, Director Thompson pointed out that the Use Permit for the site does not prohibit commercial uses that are not retail. He indicated that the zoning along Sepulveda Boulevard is Commercial General which allows office uses as well as retail uses. He said that good planning principals dictate a mix of uses along the corridor which includes retail and office uses. He restated that the existing Use Permit for the site does not prohibit non-retail uses.

Chairperson Paralusz indicated that she is not able to vote in favor of the proposal without any information from the property owner to demonstrate that the proposed use is the only option for the site rather than a retail use. She said that there is a very low vacancy rate along Sepulveda Boulevard, and she would think that the chances would be fairly high that the subject site could be rented for a retail use.

Commissioner Gross suggested that the applicant consider helping with the cost of adding a pedestrian crossing across Manhattan Beach Boulevard at the traffic light down the street so that it is not necessary to walk to the corner to cross the street. He commented that adding a crossing would be a benefit to the bank, as it would provide a convenience for their customers. He indicated that two commissioners from the Parking and Public Improvements Commission have requested that a pedestrian crossing be added.

A motion was MADE and SECONDED (Andreani/Conaway) to **APPROVE** a proposed bank use replacing a retail use in a commercial development on the property located at 1130 North Sepulveda Boulevard

AYES: Andreani, Conaway, Gross, Seville-Jones
NOES: Chairperson Paralusz
ABSENT: None
ABSTAIN: None

Director Thompson explained the 15-day appeal period and indicated that the item will be placed on the City Council's Consent Calendar for their meeting of November 15, 2011.

10/26/11-3 Consideration of City Council 2011/2012 Work Plan Item for Potential Regulations for Mobile Food Trucks in the City of Manhattan Beach

Director Thompson pointed out that the issue for consideration by the Commission is potential regulations for food trucks on private property. He said that staff will take any comments from the public regarding the issue of food trucks parking on public property; however, the focus of the Commission is regarding regulations for private property. He said that an Ordinance will be brought back to the Commission at a future meeting. He stated that the City Council will also consider an Ordinance regulating food trucks on public streets.

In response to a question from Commissioner Seville-Jones, Associate Planner Haaland indicated that staff did not yet receive information from Burbank and Santa Monica regarding their recent activity pertaining to food trucks.

Commissioner Conaway said that the staff report states that the California Safety Code 114315 requires vehicles parked over one hour to have access to an approved restroom for employees within 200 feet. He asked how the condition is regulated.

In response to a question from Commissioner Conaway, Associate Planner Haaland indicated that the County Health Department would regulate the requirement for an approved restroom in association with food trucks. He commented that he has not seen examples of approved restrooms.

Commissioner Conaway said that the requirement for an approved restroom within 200 feet of food trucks is a critical issue that should be addressed further.

Commissioner Gross asked whether the City can place all of the requirements of a permanent restaurant on mobile food trucks such as for restrooms, parking, and areas for patrons to sit or stand.

In response to a question from Commissioner Gross, Director Thompson said that the City can be very restrictive in regulating food trucks on private property.

In response to a question from Commissioner Andreani, Associate Planner Haaland indicated that there have been comments from downtown business owners in opposition to food trucks. He commented that an e-mail was received from Michael Zislis in opposition to allowing food trucks in the City which has been provided to the Commissioners.

In response to a question from Commissioner Seville-Jones, Director Thompson indicated that the Health Department regulates food trucks.

In response to a question from Commissioner Gross, Director Thompson said that food trucks on private property can be restricted a great deal provided there is good reason. He indicated that food trucks can be regulated differently in different zones.

Commissioner Gross commented that it would seem that the trucks would be appropriate in the PD and IP zones where there are not many restaurants. He indicated that he would like for the City to be very restrictive of food trucks in areas where there are many restaurants.

Director Thompson stated that staff has received complaints regarding food trucks parking on public streets in the downtown area that compete with the local restaurants. He said that staff has not received complaints regarding the food truck in the parking lot for REI on Rosecrans Avenue. He commented that managers of shopping centers are sensitive to the needs of their tenants and want to ensure that food trucks would not interfere with their businesses. He said that staff is suggesting that a temporary use permit be added to the Code for food trucks on private property with certain standards.

In response to a question from Commissioner Conaway, Director Thompson indicated that food trucks do provide revenue to the City provided that they are charging sales tax for their food.

Commissioner Conaway commented that it is important to consider whether food truck generate sales tax revenues, as it would place them more on the same level as regular restaurants.

Chairperson Paralusz stated that she would like further information regarding the enforcement of the regulations of the Health Department regarding issues such as trash disposal and oil disposal. She indicated that she would also like further information regarding enforcement of collecting sales tax revenues for food trucks.

In response to a question from Chairperson Paralusz, Director Thompson said that food trucks would require proof of insurance to operate in the City. He indicated that the City may need to

adopt the County's letter grading standards for vehicles in order to have the Health Department grading be required for food trucks.

Public Input

Harold Rothman, a resident of Hermosa Beach, the owner of Manhattan Beach Creamery, said that he sees the benefit of having food trucks in industrial areas. He indicated, however, that they have had a problem with a food truck that parked in front of their business. He commented that he is concerned with future policies regarding food trucks. He indicated that it is the responsibility of the City Council to act as the common owner and protect the downtown businesses.

In response to a question from Chairperson Paralusz, **Mr. Rothman** commented that it is the discretion of the property owner whether or not they would choose to allow food trucks in parking lots of privately owned shopping centers.

Jason Alder, representing the Manhattan Beach Creamery, said that they make most of their money in the summer. He indicated that it is difficult for their business to compete with a mobile business that can leave for another location when business is slower after the summer. He commented that having food trucks in the downtown area is different than in the REI shopping center where they are not directly competing with the adjacent businesses for food sales. He indicated that the operators of the food trucks do not have roots and do not help in the community. He stated that he does not feel the trucks fit in with the City.

Robert Escowitz, representing Manhattan Pizzeria, stated that a couple of food trucks were in the downtown area for the entire summer. He indicated that the trucks were parked at parking meters on Fridays and Saturdays throughout the summer and took business away from local restaurants. He indicated that the trucks were given tickets by the police, but the operators were willing to pay the ticket. He said that the trucks would remain until 2:00 a.m. He pointed out that the pizzeria pays rent and tax revenue to the City. He commented that patrons of the food trucks would put their trash in the public trash cans. He said that the awnings from trucks blocked the sidewalk and left little room left to walk past. He indicated that food trucks should be permitted in industrial areas and not in the downtown area where there is a concentration of restaurants.

Chairperson Paralusz closed the public hearing.

Commission Discussion

Commissioner Conaway said that he would like further information as to whether it is necessary to allow food trucks somewhere within the City as part of a first amendment right as with tattoo studios.

Director Thompson pointed out that food trucks must be allowed on public streets with appropriate restrictions. He indicated that further restrictions can be placed on food trucks depending on the area and the traffic conditions. He indicated that staff would consider the downtown area and North End as sensitive areas. He indicated that he is not certain that the City would want to entirely restrict food trucks from private property.

Commissioner Conaway indicated that there does not seem to be an objection to allowing food trucks in industrial areas.

Commissioner Gross stated that he would want food trucks to be restricted in areas where there is a density of restaurants.

Commissioner Conaway suggested that food trucks be allowed on private property for certain districts and restricted in the downtown area. He indicated that he would like for the Ordinance to allow food trucks in certain zones.

Commissioner Gross pointed out that there are portions of the Sepulveda Corridor where there is a concentration of restaurants and other portions where there is not. He indicated that it is not fair for restaurants that are in business all year to have to compete with food trucks that are only in the area during the busy season. He commented that it is up to the City Council to enact a policy as to whether the City should continue to encourage the existing restaurants and not create an obstacle for their success.

Commissioner Andreani stated that she would not support allowing food trucks in the downtown area and the North End. She said that the streets and sidewalks do not have sufficient space to allow for food trucks, and she has seen people have to walk into the street to go around them. She indicated that she would support establishing a temporary use permit process to allow food trucks on private property. She commented that she would support adding language in the findings and purpose section of the Ordinance to explain the reason for the rules and regulations such as was included in Santa Monica. She also suggested that definitions be included in the Ordinance for Manhattan Beach as was done in Santa Monica, Redondo Beach, and El Segundo. She stated that she feels the fees for violations should be high. She commented that the permits should also include hours of operation and responsibility for cleaning up any trash that is generated. She commented that she likes the idea of requiring the letter grade rating by the County for food trucks. She said that there should also be a noise limit imposed for food trucks. She indicated that she feels food trucks should not be permitted to provide samples to customers.

Commissioner Seville-Jones stated that she would also support establishing a temporary use permit process for allowing food trucks on private property. She said that she would want to limit the number of times that a particular food truck is allowed to park in the community. She indicated that she does not feel that food trucks are appropriate in residential areas, the North End, or downtown areas. She indicated that she feels there is self regulation for privately owned shopping centers, as there is limited space and the owners would not want to hurt the business of any of their tenants. She said that she would not want to restrict the rights of private property owners to have food trucks within zones that are appropriate. She commented that she also feels that the fees for the temporary use permits should be high. She said that she would hope that the issue of collecting sales tax from food trucks is addressed. She indicated that it is not fair for food trucks to compete with local restaurants that pay a great deal of rent when the trucks can park in front of the restaurants for the cost of a parking meter. She said that having the trucks on the streets is a burden to the local businesses.

Chairperson Paralusz indicated that she is concerned with the safety issue of food trucks blocking access, as the sidewalks in the City are small. She stated that she would not support allowing food trucks on private property near residential areas. She said that she generally supports the right of private property owners to open up their property to food trucks within reasonable limits. She commented, however, that food trucks should not be allowed in the North End and downtown area because those areas are very congested and do not have much space. She suggested that food trucks be permitted in areas such as in the REI parking lot and Bristol Farms parking lot along Rosecrans Avenue. She stated that she would not support allowing food trucks in the Manhattan Village parking lot, as there are many restaurants that

are part of the shopping center. She commented that food trucks may be welcomed by employees of Northrop Grumman along Aviation Boulevard.

Chairperson Paralusz indicated that she would want to ensure that the City strictly enforces the Use Permit and County health regulations for food trucks, particularly regarding access to restrooms, disposal of trash and grease, and amplified noise. She said that she would want to require that the County health letter grades be prominently displayed as is required for restaurants in the City. She commented that requiring the letter grade would provide an incentive for the truck owners to remain in compliance with County health standards in order to receive a high mark. She suggested that staff contact the Chamber of Commerce to ask for their input regarding food truck regulations.

Commissioner Gross indicated that he is particularly concerned with the density of restaurants in the CG zone. He suggested that food trucks be required to park a certain distance from restaurants and that a minimum distance be required between food trucks.

Commissioner Andreani commented that she would not want to interfere with the rights of private property owners but would want to be sure that the parking requirements for the shopping centers are recognized.

Director Thompson commented that staff plans to bring more information to the Commission regarding the item at their meeting of December 14, 2011.

5. DIRECTORS ITEMS

Director Thompson stated that the Environmental Impact Report is being prepared for the Manhattan Village mall project. He commented that the report has taken a long time to complete because many changes have been made to the project. He said that staff advised the applicant against their request to contact the Planning Commissioners individually to provide briefings regarding the project. He indicated that staff is suggesting that a community forum be held once the applicant is ready to publish the Environmental Impact report.

6. PLANNING COMMISSION ITEMS

Commissioner Seville-Jones commented that the Commissioners received an e-mail from **Nate Hubbard** regarding violations of the operating hours for the Shade Hotel. She asked whether staff has information regarding enforcement that has been taken for any violations.

Director Thompson indicated that the Police Department is aware of the concerns expressed by **Mr. Hubbard** regarding the hotel. He said that staff is working with the Police Department to ensure that the current Use Permit is being enforced. He commented that the Use Permit that was granted last year allows the hotel to remain open until midnight; however, that entitlement is not allowed until the improvements are completed that were agreed to by **Mike Zislis**. He indicated that the entitlement is not yet permitted, as the improvements have not been completed. He indicated that **Mr. Zislis** is having problems with providing fire access with enclosing the entry way and balcony areas. He said that the requirement for closing at 11:00 p.m. during the week will be enforced.

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**EXCERPTS FROM THE FINAL PLANNING COMMISSION MEETING
MINUTES OF DECEMBER 14, 2011**

Director Thompson explained the 15-day appeal period and stated that the item will be placed on the City Council's Consent Calendar for their meeting of January 17, 2012.

12/14/11-3 Proposed Amendment to Title 10 (The Zoning Ordinance) of the Manhattan Beach Municipal Code, Pertaining to Food Truck Regulations on Private Property

Director Thompson indicated that the proposed regulations would relate to food trucks on private property. He commented that an additional ordinance to regulate food trucks on public property will be brought to the City Council along with the regulations for private property at their meeting of January 17, 2012. He pointed out that most of the comments from members of the public at the previous hearing were regarding the impacts of food trucks on public property. He indicated that those comments will be forwarded to the City Council.

In response to a question from Commissioner Gross, Director Thompson indicated that staff is working with the City Attorney to craft language in the Ordinance to restrict the ability of food trucks to park in the downtown area and the North End. He commented that staff is focusing on public health and safety issues in order to restrict food trucks from parking in the downtown due to the narrowness and slope of the streets and sidewalks. He indicated that the Ordinance will be discussed by the City Council on January 17.

In response to a question from Commissioner Gross, Director Thompson stated that food truck operators would be required to have a business license. He said that staff is attempting to restrict food trucks from the downtown area and North End completely. He indicated that staff is still working on forming restrictions for public property in other areas of the City.

In response to a question from Chairperson Paralusz, Director Thompson indicated that there would probably be restrictions for food trucks to locate within a certain distance from schools. He stated, however, that trucks would be permitted for special functions on school property as the school district determined to be appropriate.

Commissioner Seville-Jones stated that she is comfortable with requiring a temporary use permit for food trucks to park and sell food on private property. She indicated that she is confident that staff understands that the regulations for such trucks on private property need to be integrated with the regulations on public property to the extent that it is allowed by law.

Commissioner Andreani said that she would like for the concern to be addressed regarding food trucks parked on public property having an unfair advantage in competing with restaurants. She commented that there would also be a concern with unfair competition from food trucks on private property within the large commercial developments along Rosecrans Avenue.

Commissioner Seville-Jones pointed out that a private property owner would not want to hurt the business of their tenants by allowing unfair competition from a food truck on their property.

Chairperson Paralusz indicated that there is an issue of unfair competition from food trucks parked on public streets, as the food trucks do not have to pay rent as do restaurants.

Commissioner Gross suggested including language in the findings section of the Ordinance regarding the intent of preventing unfair competition with local restaurants, as was done in the Ordinance of Santa Monica.

Commissioner Conaway commented that a large concern is that food trucks have access to restrooms.

Commissioner Gross stated that food trucks need to have the same requirements as restaurants to the extent that they become like a restaurant. He commented that he is concerned that the private property owner and food truck operator would have incentive to make the food trucks operate as a restaurant. He said that a condition should include that there be no chairs and tables for use by patrons of food trucks.

Commissioner Seville-Jones said that she is not certain that there would be a need to place regulations on having tables and chairs. She indicated that patrons tend to buy their food from food trucks and leave rather than eat at the location where they purchase the food. She indicated that the private property owner has every incentive to not harm their tenants by having a food truck with an unfair competitive advantage on their property.

Associate Planner Haaland summarized the staff report.

In response to a question from Chairperson Paralusz, Associate Planner Haaland commented that a private property owner or coordinator of a special event would sign for approval of the application for the temporary use permit. He indicated that the temporary use permit would specify the number of food trucks, their location within the parking lot, and their clearance from driveways. He indicated that food trucks would require a business license.

In response to a question from Chairperson Paralusz, Associate Planner Haaland said that the temporary use permit can be changed from year to year if some aspect becomes a concern. He commented that the use could be implemented similar to a temporary sign permit which allows for a business to set a schedule in increments during the course of the year, and that schedule can be revised subject to staff approval.

In response to a question from Commissioner Gross, Associate Planner Haaland indicated that the areas designated as PS (Semi Public) on the zoning map are usually publicly owned and would not typically be subject to granting of temporary use permits. He stated that the regulations for the PS zone apply to a school or church use that is located in a residential zone, and larger than two acres in site area.

In response to a question from Commissioner Gross, Associate Planner Haaland commented that the reference to subsection E in the chart for industrial land use regulations on page 3 of the draft Resolution is to an "additional regulation" within the Industrial chapter of the Code, which is not included as part of the Resolution. He said that it is a coincidence that the portion of the temporary use permits regulations being amended is also designated subsection E, but of a different section and chapter of the Code.

Commissioner Gross indicated that it would be helpful to state the principle for enacting the regulations in the Ordinance, as was done for the Ordinance in Santa Monica. He suggested that a preamble be included that states that the requirements of a restaurant should apply to food trucks on private property that act as a restaurant. He commented that it is not fair for a food truck to be in competition with restaurants which are much more expensive to operate. He stated that food trucks also are not required to meet the same requirements as restaurants for parking and providing restrooms for patrons. He asked as to why restrictions are not placed on food trucks that would prevent them from becoming like a restaurant, such as not being permitted to have tables and chairs.

Associate Planner Haaland indicated that a restriction on tables and chairs could be included for food trucks on private property. He pointed out that restricting the number of days that a

food truck can locate on a property would prevent it from acting as a permanent restaurant. He commented that allowing a truck on a site for 30 days is consistent with the temporary period established in the existing Code for temporary use permits.

In response to a question from Commissioner Gross, Associate Planner Haaland commented that specific detailed requirements are generally not included in the Code for temporary use permits because they are more flexible and can be changed more easily than permanent use permits.

Commissioner Andreani asked about the possibility of revising the language of Item I in Section 1 of the draft Resolution to state: "It is appropriate to regulate food trucks on private property as temporary uses subject to parking, circulation, Health Department certification and sanitation requirements."

In response to a question from Commissioner Andreani, Director Thompson indicated that food trucks would be required to have letter grades from the County Health Department as specified by that agency's authority. He stated, however, that the trucks cannot be restricted in the City because of having a lower letter grade.

Associate Planner Haaland pointed out that verification of Health Department certification is included as a condition in Section E, Item 2 on page 4 of the draft Resolution.

Commissioner Conaway asked regarding the possibility of specifying the fees for the temporary use permit in the Ordinance. He commented that he is concerned regarding compensation for staff time in processing the applications and monitoring the food trucks. He pointed out that there is a very involved process in approving a restaurant. He asked if the fee for a temporary use permit is nominal and if it would cover the time that is spent by staff.

Associate Planner Haaland commented that fees are usually not specified in the Code, as a Code Amendment would be needed in order to change the amount. He indicated that the Council's resolution of fees for permits can change as often as necessary. He said that a different fee could be established if it is determined that more staff time is necessary for processing temporary use permit applications for food trucks. He indicated that the fees typically cover the cost of staff time and City resources.

Chairperson Paralusz asked about the possibility of limiting the starting time for the operation food trucks in Section E, Item 1 of the draft Resolution rather than only specifying that they be permitted three days a week and are permitted to operate until 10:00 p.m.

Associate Planner Haaland indicated there has not historically been an issue with morning start times, but a permitted starting time could be included.

Chairperson Paralusz reopened the public hearing.

Public Input

Matt Geller, representing the Southern California Mobile Food Vendors Association, commented that they are concerned with setting a limit of 30 days per year for food trucks to locate on a particular property. He pointed out that the food truck which locates one day a week on the Main Street lot in Santa Monica generates a great deal of revenue for the California Heritage Museum. He indicated that people visit the food truck because they know the day and time during the week that it will be there. He commented that food trucks can provide lunch for employees of businesses in areas where there are not many restaurants. He

asked whether allowing a truck five days a week on private property to provide lunch for nearby employees would be possible under the subject Ordinance. He also asked if it would be possible for an application to be approved for a food truck on a property after another food truck has already located on the site for the permitted 30 days for that year.

Director Thompson commented that it would be the responsibility of a property owner to sign the application for a food truck to be permitted to locate on their property. He said that staff would not want for food trucks to be located on a particular property for more than 30 days per year and for more than three days per week, as the intent is to avoid allowing a food truck consistently throughout the year at a particular location.

Chairperson Paralusz closed the public hearing.

Commission Discussion

Commissioner Conaway said that his experience is that food trucks typically park in one area consistently so that their customers will know their schedule. He asked the opinion of the other Commissioners in changing the number of days permitted for food trucks to locate on a site to 52 in order to allow them to be on a particular property one day per week.

Chairperson Paralusz commented that she would be concerned that allowing food trucks to locate on a site 52 days a year would permit them to become more of a permanent use rather than a temporary use. She said that she would possibly consider allowing food trucks to locate at a particular site 52 days a year if it were restricted to only one day per week.

Commissioner Andreani commented that allowing trucks at a particular site one day per week would take away from them being a temporary use, as it would be a structured schedule.

Commissioner Seville-Jones said that she agrees with the comments of Commissioner Andreani.

Commissioner Gross said that he would like for food trucks to be very restricted in the CG (General Commercial) zone. He suggested allowing food trucks two days a week and prohibiting them from having tables and chairs within the CG zone. He indicated that he feels there is a difference in allowing food trucks in the CG zone and allowing them to provide lunch to employees of businesses within the industrial zone, as there are not many nearby restaurants in that area. He said that the City might want to differentiate regulations for food trucks within different zones. He commented that the purpose is to encourage regular restaurants in the General Commercial zone.

Commissioner Conaway commented that he is very satisfied with the staff report and the proposed Ordinance, and his questions have been answered. He indicated that he also would like to include a specified permitted starting time for the operation of food trucks in Section E, Item 1 on page 4 of the draft Resolution. He suggested allowing food trucks to begin operating at 11:00 a.m.

Commissioner Gross indicated that he would like for the regulations for food trucks to be very restrictive in the CG zone. He stated that he would support allowing food trucks located within the CG zone to operate at a particular site for 10 days rather than 30 days per year; allowing them two days a week rather than three days per week; and prohibiting them from having tables and chairs. He commented that he would want a food truck to comply with the same requirements as a regular restaurant within the CG zone. He commented that he would agree with having a permitted starting hour of 11:00 a.m. for food trucks.

Commissioner Seville-Jones pointed out that food trucks currently are not allowed within the City for practical purposes, and the intent of the proposed amendments is to provide reasonable regulations for allowing food trucks. She said that she is supportive of allowing food trucks temporarily for fundraising events. She indicated, however, that she would not support allowing them once a week, which could cause local restaurants to lose business. She commented that she wants to allow food trucks sufficient leeway to operate within the community but would not want to allow them to operate the same as small businesses. She commented that she would not want to allow food trucks daily in the industrial area, as there are a number of nearby restaurants where employees of businesses can go for lunch. She would want the restrictions for food trucks to be the same within all zones of the City. She said that she believes property owners would self regulate allowing unfair competition from food trucks on their property. She commented that a temporary use permit can be modified if concerns are raised. She indicated that she is not certain if the intent is to allow more than one food truck at a location on a particular day. She suggested changing Section 2, Item J to read: "Sales of prepared food from ~~vehicles~~ a vehicle in a non-residential parking area for no more than 30 days per calendar year."

Director Thompson commented that staff did not establish a maximum number of trucks at one location at any particular time. He indicated that there has not been a problem with multiple trucks at any particular location, and staff wanted to leave the language of the Ordinance flexible. He indicated that the restriction would be placed on the number of days at a particular location rather than on the number of food trucks. He said that there are other criteria in the Ordinance that could impact the number of trucks, such as the impact on parking or forcing customers of a shopping center to park on public streets. He stated that the temporary use permit allows staff to impose additional restrictions if issues are raised.

Commissioner Seville-Jones indicated that she would support the suggestion of Commissioner Andreani to add language to Item I in Section 1 of the draft Resolution to state: "It is appropriate to regulate food trucks on private property as temporary uses subject to parking, circulation, Health Department certification and sanitation requirements." She said that she would support requiring that food trucks not be permitted to begin operating until 10:00 a.m. or 11:00 a.m. She indicated that she would not support allowing food trucks 52 days a year at a particular location. She indicated that she feels allowing them 10 days at a particular location would be too restrictive, and she would support allowing them 30 days.

Commissioner Andreani said that she supports the draft Resolution. She stated that she supports adding a statement of purpose similar to the Resolution of Santa Monica which would help to control and enforce regulations for food trucks. She suggested adding language to Item I in Section 1 of the draft Resolution to state: "It is appropriate to regulate food trucks on private property as temporary uses subject to parking, circulation, Health Department certification and sanitation requirements." She also suggested adding wording to the third sentence of Item B under "Temporary Use Permits" on page 4 of the draft Resolution to state: "Such approval shall consider and incorporate comments from Police, Fire, Public Works, the County Department of Health, and other relevant reviewing bodies." She commented that she would agree with the other Commissioners that food trucks not be permitted to begin operating until 10:00 a.m. or 11:00 a.m. She suggested that the first sentence of Item 4 under "Food Truck Criteria" on page 4 of the Resolution be revised to read: "Verification of adequate parking assuring that parking requirements for other businesses are met . . ." She suggested that the second sentence of Item 2 under "Exceptions" on page 5 of the draft Resolution be revised to read: "The applicant ~~may~~ must apply annually for a temporary use permit . . ."

Chairperson Paralusz said that the use of the word “may” in Item 2 suggests that an applicant may apply for another temporary use permit if they wish to continue operating on a particular site rather than being required to reapply.

Chairperson Paralusz indicated that she agrees with many of the comments of the other Commissioners. She stated that she would support allowing food trucks to begin operating at possibly 10:00 a.m. She stated that she is concerned with allowing food trucks to operate until 10:00 p.m. She commented that she does not feel that the food trucks should be permitted to operate later than the closing time of businesses on private property. She said that she is also concerned with any noise impacts to neighbors from the food truck operators cleaning up after 10:00 p.m. She indicated that she would support allowing food trucks to operate until 9:00 p.m. She stated that she is not in favor of imposing greater restrictions on food trucks within the CG zone or fewer restrictions within the IP zone. She said that she does not agree with including a purpose statement, as the proposed amendments are part of the existing temporary use permit requirements and not a separate Ordinance addressing food trucks. She indicated that she would support the suggestion of Commissioner Andreani to add wording to the third sentence of Item B under “Temporary Use Permits” on page 4 of the draft Resolution to state: “Such approval shall consider and incorporate comments from Police, Fire, Public Works, the County Department of Health, and other relevant reviewing bodies.”

In response to Commissioner Seville-Jones, Director Thompson said that he does not feel it is necessary to add the County Department of Health to Item B. He commented that the Code does not typically require comments to be incorporated and considered from other regulatory bodies outside of the City. He pointed out that Item 2 under Section E requires verification of County Health Department certification.

Commissioner Gross said that he is concerned that having a food truck on a particular site as often as possible would be in direct competition with local restaurants, which is the reason he would suggest having greater restrictions for food trucks in the CG zone.

Chairperson Paralusz commented that she would probably be in agreement with including more restrictions for food trucks in the CG zone if there were not restrictions in the proposed Amendments for the number of days per week and per year that food trucks would be permitted locate on a particular property. She pointed out that the people who expressed opposition at the last hearing were the operators of businesses in the Coastal Zone where the temporary use permits would not apply.

Commissioner Seville-Jones commented that she does not believe that food trucks located on a property for 30 days a year would generate sufficient revenue to provide rent for a property owner. She pointed out that a temporary use permit can be reviewed and changed if it results in problems.

Commissioner Conaway said that he feels allowing food trucks on a specific property for 30 days a year and a maximum of three days per week is sufficiently restrictive. He indicated that the complaints that were received at the last hearing were regarding businesses in the downtown area. He stated that he is comfortable with having the same restrictions for food trucks in all zones. He commented that a restaurant rather than a food truck would most likely be located on a site if there is a need in the market to support such a use.

In response to a question from Commissioner Conaway, Director Thompson indicated that staff specifically did not include language that there be no loss of required parking for existing businesses in Item 4 under “Food Truck Criteria.” He pointed out that temporary uses such as Christmas tree lots are allowed to utilize areas with required parking for a limited time. He

said that staff's intent is that the parking is still able to accommodate the customers of a property with the temporary use on the site.

Commissioner Seville-Jones suggested revising the language of the first sentence of Item 4 under "Food Truck Criteria" on page 4 of the Resolution be revised to read: "Verification of adequate parking for the existing uses and the food truck(s) . . ."

Action

A motion was MADE and SECONDED (Gross/Seville-Jones) to **APPROVE** the proposed Amendment to Title 10 (The Zoning Ordinance) of the Manhattan Beach Municipal Code, pertaining to food truck regulations on private property with the revision to Section E, Item 1 of the draft Resolution to specify permitted hours of operation for food trucks three days per week and from 10:00 a.m. to 9:00 p.m.; with the revision to Item 4 under "Food Truck Criteria" on page 4 of the draft Resolution be revised to read: "Verification of adequate parking for the existing uses and food truck(s) . . ."; and with the revision to Item I in Section 1 of the draft Resolution to state: "It is appropriate to regulate Food Trucks on private property as temporary uses subject to parking, circulation, Health Department certification, and sanitation requirements."

AYES: Andreani, Conaway, Gross, Seville-Jones, Chairperson Paralusz
NOES: None
ABSENT: None
ABSTAIN: None

Director Thompson stated that the item will be presented to the City Council along with a draft Ordinance regulating food trucks on public streets at their meeting of January 17, 2012.

5. DIRECTORS ITEMS

Director Thompson commented that the LED sign for the Journey of Faith church was appealed by the applicant and has been approved by the City Council.

In response to a comment from Commissioner Gross, Chairperson Paralusz suggested that the subject of LED signs would be a good item to include on the agenda of the next joint meeting with the City Council and Planning Commission.

Director Thompson said that the City Council approved the Tattoo Ordinance with a limit to zones as recommended by the Commission; with a distance requirement from schools and parks of 600 feet; and with a distance requirement of 200 feet between tattoo parlors.

6. PLANNING COMMISSION ITEMS

7. TENTATIVE AGENDA December 28, 2011

8. ADJOURNMENT

The meeting was adjourned at 8:30 p.m. to Wednesday, January 11, 2012, in the City Council Chambers, City Hall, 1400 Highland Avenue

SARAH BOESCHEN
Recording Secretary

ATTEST:

Planning Commission Meeting Minutes of
December 14, 2011

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**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development *UBJ*

BY: Eric Haaland, Associate Planner *EH* *FOR P.T.*

DATE: December 14, 2011

SUBJECT: Proposed Amendment to Title 10 (The Zoning Ordinance) of the Manhattan Beach Municipal Code, Pertaining to Food Truck Regulations on Private Property.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the public hearing, **DISCUSS** the proposed zoning ordinance amendments, and **ADOPT** the attached resolution recommending approval to the City Council.

BACKGROUND

At its regular meeting of October 26, 2011, the Planning Commission discussed the City Council work plan item regarding Food Trucks. The Commission heard complaints regarding Food Trucks on public streets, discussed both public and private property issues, and directed that a Zoning Amendment be scheduled. The Planning Commission is responsible for reviewing amendments to the City's Zoning Code, which regulates use of private property, however, there were other general questions regarding Food Trucks, some that apply to public property, that are discussed in a summary attached to this report. The October 26th Staff report and minutes are also attached for reference.

DISCUSSION

The proposed zoning amendment contained within the attached Resolution creates a Temporary Use classification for "Food Truck Sales", occurring on private property in commercial, industrial, and other non-residential zones. This use would be permitted in parking lots in the Community Commercial, Commercial General, Industrial, and Public and Semi-public districts as shown in the corresponding land use regulation tables of the Zoning Code. It would also be permitted in most Planned Development locations as it is common practice to apply the most closely corresponding standards (e.g., CG for a retail center) in that zone, since it has no pre-established specific regulations.

The use classification proposed for Food Truck Sales is defined as sales of prepared food from vehicles certified by the Los Angeles County Health Department for a maximum 30 days per year for any single location. This time period appears to represent what is

considered appropriate for a temporary use, being consistent with existing temporary use permit language (Section 10.84.110(E)) that already limits a single permit to a 30 day period. It is expected that Food Truck Sales events will be spread out over a period of time, probably a series of weekends.

Section 10.84.110 of the zoning code provides the procedures and requirements for approving temporary use permits. These include the 30-day time limit, required findings, and imposition of conditions. Every temporary use permit must be reviewed and conditioned by Community Development, Police, Fire, and Public Works Departments, to be safe and non-disruptive to the surrounding area. During this process staff would confirm the Health Department, parking, circulation, and sanitation compliance for each Food Truck Sales event. These criteria for approving Food Truck Sales event permits are included in the proposed Resolution in addition to others regarding noise, light, and aesthetics. Standards limiting closing time to 10pm, and daily frequency to 3 days per week, are also proposed. Staff expects verification of parking adequacy, restroom compliance, and waste disposal to be consistent primary issues when reviewing these applications.

Informational language has been included with the temporary use permit criteria clarifying that public schools are not subject to City permit approval, but business licenses are required for individual Food Trucks.

Food Truck Sales are specifically not proposed to be permitted in the coastal zone (e.g., CD, CNE, CL) as suggested by the Planning Commission. Residential zones, Open Space zones, and inland CL (Local Commercial) zones would also not be permitted areas for Food Truck Sales. Temporary use permits for “Street Fairs” in many areas citywide (including CD, CNE, & CL zones) may continue to include food truck components as is currently permitted.

The Planning Commission’s Zoning Code Amendment recommendation for private property, along with input received regarding Food Trucks on public streets, will be forwarded to the City Council for approval of an ordinance addressing overall Food Truck regulations in Manhattan Beach.

CONCLUSION

Staff recommends that the Planning Commission accept public testimony, discuss any general food truck comments and issues, discuss the proposed Zoning Code Amendment pertaining to food trucks on private property, and adopt the proposed Resolution recommending City Council approval.

Attachments:

- A. Resolution No. PC 11-
- B. Summary of General Food Truck Information
- C. P.C. Minutes & Staff Report, dated 10/26/11, including:
 - State Vehicle Code 22455
 - Calif. Safety Code 114315
 - Food Truck articles – Glendale News 10/6/11, Pasadena Star News 10/4/11
 - Letter dated 11/22/10, from SCMFVA
 - Temp. use zoning excerpts

RESOLUTION NO. PC 11-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH, CALIFORNIA RECOMMENDING AMENDMENTS TO THE MANHATTAN BEACH MUNICIPAL CODE TITLE 10 (ZONING ORDINANCE) PERTAINING TO REGULATING FOOD TRUCKS ON PRIVATE PROPERTY

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. The Planning Commission conducted a public hearing pursuant to applicable law to consider amendments to Section 10.60.160 of Title 10 of the Manhattan Beach Municipal Code.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received on December 14, 2011.
- C. The proposed project will not have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- D. The proposal is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment.
- E. The proposed amendments are consistent with the goals and policies of the City's General Plan and Local Coastal Program and with the purposes of Title 10 (Zoning Ordinance) of the Manhattan Beach Municipal Code.
- F. The 2011 Manhattan Beach City Council Work Plan includes an item to review and update City regulations pertaining to the operation of Food Trucks;
- G. The regulation of Food Trucks on private property is implemented by the Zoning Ordinance, where it is the authority of the Planning Commission to recommend an amendment;
- H. The Planning Commission heard testimony regarding Food Trucks on public streets, which are regulated by Municipal Code Titles other than the Zoning Ordinance, whose amendment will be considered under City Council authority;
- I. It is appropriate to regulate Food Trucks on private property as temporary uses subject to parking, circulation, and sanitation requirements;
- J. Establishment of "Food Truck Sales" as a temporary use provides such events and operations a more practical permitting process than the current requirement for a "Street Fair" temporary use permit for each individual occurrence of Food Truck activity;
- K. It is not appropriate to encourage Food Truck sales on private property in Area Districts III and IV (beach area) of the City of Manhattan Beach since these properties are typically small in area with small or no on-site parking areas, parking supply relative to demand at peak periods is severely low; and vehicle and pedestrian congestion at peak periods is severely high.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby recommends approval of the subject amendments to the Manhattan Beach Municipal Code and the Local Coastal Program as follows:

Amend Section 10.08.080 of Title 10 and A.08.080 to the Implementation Program of the Local Coastal Program as follows:

10.08.080 - Temporary use classifications.

- A. Animal Shows. Exhibitions of domestic or large animals for a maximum of 7 days.
- B. Christmas Tree/Pumpkin Sales. Outdoor retail sales of Christmas trees between Thanksgiving and December 26, and, pumpkins between September 30 and November 1.
- C. Circuses and Carnivals. Provision of games, eating and drinking facilities, live entertainment, animal exhibitions, or similar activities in a tent or other temporary structure for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility.
- D. Commercial Filming, Limited. Commercial motion picture or video photography at the same location 6 or fewer days per quarter of a calendar year.
- E. Real Estate Sales. An office for the marketing, sales, or rental of residential, commercial, or industrial development.
- F. Retail Sales, Outdoor. Retail sales of new merchandise on the site of, and operated by, a legally established retail business for a period not to exceed 48 hours no more than once every 3 months.
- G. Street Fairs. Provision of games, eating and drinking facilities, live entertainment, or similar activities not requiring the use of roofed structures.
- H. Trade Fairs. Display and sale of goods or equipment related to a specific trade or industry for a maximum period of 5 days.
- I. New Year's Eve. Extension of hours of operation for all restaurants, bars, hotels, facilities within hotels, and similar commercial businesses to remain open until 1:00 a.m. on New Year's Day.
- J. Food Truck Sales. Sales of prepared food from vehicles in a non-residential parking area for no more than 30 days per calendar year.

Amend the “Temporary Uses” portion of the “Commercial Land Use Regulations” table of Section 10.16.020 of Title 10 as follows:

	CL	CC	CG	CD	CNE	Additional Regulations
Temporary Uses						(G)
Animal Shows	-	-	U	-	-	
Christmas Tree Sales/Pumpkin Sales	P	P	P	P	P	
Circus and Carnivals	-	U	-	U	U	

Commercial Filming, Limited	-	U	U	U	U	
New Year's Eve	U	U	U	U	U	
Real Estate Sales	P	P	P	P	P	
Retail Sales, Outdoor	P	P	P	P	P	
Street Fairs	U	U	U	U	U	
Trade Fairs	-	U	U	-	-	
<u>Food Truck Sales</u>	-	<u>U</u>	<u>U</u>	-	-	

Amend the “Temporary Uses” portion of the “Industrial Land Use Regulations” table of Section 10.20.020 of Title 10 as follows:

	IP	Additional Regulations
Temporary Uses		
Real Estate Sales	P	
Trade Fairs	U	(E)
<u>Food Truck Sales</u>	<u>U</u>	<u>(E)</u>

Amend the “Temporary Uses” portion of the “Public and Semi-Public Land Use Regulations” table of Section 10.28.020 of Title 10 as follows:

	PS	Additional Regulations
Temporary Uses		(A)
Animal Shows	U	
Christmas Tree/Pumpkin Sales	P	
Circuses and Carnivals	U	
Commercial Filming, Limited	U	
Trade Fairs	U	
<u>Food Truck Sales</u>	<u>U</u>	

10.84.110 - Temporary use permits.

A temporary use permit authorizing certain temporary use classifications, as defined in Chapter 10.08 of this title and as listed in the land-use regulations for the base districts in which the use will be located, shall be subject to the following provisions:

A. Application and Fee. A completed application form and the required fee shall be submitted to the Community Development Director. The Community Development Director may request any other plans and materials necessary to assess the potential impacts of the proposed temporary use.

B. Duties of the Community Development Director. The Community Development Director shall approve, approve with conditions, or deny a complete application within a reasonable time. Such approval shall consider and incorporate comments from Police, Fire, Public Works, and other relevant reviewing bodies. No notice or public hearing shall be required.

C. Required Findings. The application shall be approved as submitted, or in modified form, if the Community Development Director finds:

1. That the proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan and the provisions of this title; and
2. That approval of the application will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare.

D. Conditions of Approval. In approving a temporary use permit, the Community Development Director may impose reasonable conditions necessary to:

1. Achieve the general purposes of this title and the specific purposes of the zoning district in which the temporary use will be located, or to be consistent with the General Plan;
2. Protect the public health, safety, and general welfare; or
3. Ensure operation and maintenance of the temporary use in a manner compatible with existing uses on adjoining properties and in the surrounding area.

E. Food Truck Criteria. In approving a temporary use permit for Food Truck Sales, the Community Development Director shall require:

1. Operational hours not to exceed more than 3 days per week, and 10:00 pm.at night.
2. Verification of County Health Department certification, and City Business Licenses. Private Food Trucks operating at events at public schools that are not subject to City permits are subject to City business licenses.
3. Verification of restroom access, proper waste disposal facilities, and adequate security. Food Trucks parked more than one hour shall provide a letter from a business within 200 feet allowing Food Truck employees to use restrooms in compliance with California Health Code standards.
4. Verification of adequate parking, circulation, noise control, glare prevention, and aesthetic appropriateness. Plans and materials demonstrating protection of surrounding vehicular and pedestrian circulation, and parking shall be provided.

F. Effective Date—Duration—Appeals. An approved temporary use permit shall be effective on the date specified in its approval; a disapproved permit may be appealed by the applicant, as provided in Chapter 10.100 of this title. The permit shall be valid for a specified time period not to exceed thirty (30) days. A

temporary use permit shall lapse if not used within the dates approved and may be revoked by the Community Development Director effective immediately upon verbal or written notice for violation of the terms of the permit. Verbal notice shall be confirmed by written notice mailed to the permit holder within a reasonable time. The Community Development Director may approve changes in a temporary use permit.

Exceptions:

1. A Christmas tree/pumpkin sales temporary use permit may exceed thirty (30) days but shall be valid only during the time period in which the activity is taking place.
2. New Year's Eve hours of operation extensions shall only be valid until 1:00 a.m. for the one (1) time/day requested. The applicant may apply annually for a temporary use permit to request extended New Year's hours.

SECTION 3. The Secretary to the Planning Commission shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.

PASSED, APPROVED, and ADOPTED this 14th day of December, 2011.

Ayes:
Noes:
Absent:
Abstain:

Richard Thompson
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

General Food Truck Information

- 1. How is sales tax collected and allocated?** Staff understands that the local government portion of sales tax collected from food trucks is given to the County to allocate between itself and its cities on a generalized basis not accounting for actual locations of sales.
- 2. Can additional fees be charged?** A vote of City residents is required to change the current business tax charged to food trucks. A fee covering processing costs may be charged for any permits that might be required. The City does charge a nominal rental fee to restaurants that permanently use City (walk street) right-of-way, but food truck use of right-of-way would not be permanent.
- 3. Can food trucks occupy multiple parking spaces?** No. City code requires vehicles to park within the markings of a designated space.
- 4. Can penalties for parking and other violations be increased?** The City may establish a schedule of penalties for parking violations, but such penalties should apply to all vehicles, not just food trucks. In addition, the Vehicle Code requires that local jurisdictions consider parking penalties in surrounding jurisdictions and seek to standardize penalties in the same county. With respect to violations of the municipal code, the amount of the penalty is capped by state law. In general, a violation of a city ordinance is a misdemeanor, punishable by a fine of no more than \$1,000 and/or imprisonment not to exceed six months. If the City chooses to designate certain violations as infractions, the infraction is punishable based on the number of violations as follows: “(1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year.”
- 5. How is food truck insurance verified?** The County Health Department verifies insurance.
- 6. How is Health Department letter grading done?** The County Health Department assigns each food truck to an approved commissary (storage/loading/preparation/maintenance facility) where the truck is based and inspected. Some inspections are done in the field intermittently. Staff understands that the requirement for the letter grade to be posted on the vehicle is dependent on whether the commissary is in an area that has established that requirement. This implies that it would not be helpful for Manhattan Beach to adopt that regulation, since no commissaries are located here.
- 7. Can the City require minimum grades?** No. The County Health Department has sole authority over its letter grading health regulations.
- 8. Can the City require minimum distances from conventional restaurants?** It is currently understood that Cities can only regulate safety aspects of food trucks on streets, and business competition issues are typically not components of zoning approvals for private property.
- 9. Can the City impose trash, traffic, and sidewalk clearance requirements?** The State Vehicle Code specifically states that cities can impose public safety regulations for food trucks on streets. Adequate waste control, safe vehicular conditions, and proper pedestrian access are certain to be required.

10. **What are restroom requirements?** Private restrooms within 200 feet must be provided for employees, not customers, if a food truck is parked in one location more than one hour. Public restrooms, like at the pier or park, may not be used to meet this requirement.
11. **How is operational waste disposed of?** Kitchen maintenance and waste removal is to be done at the Food Truck's assigned commissary.
12. **What updates are there from other cities?** Staff previously referred to Burbank and Santa Monica as having relevant food truck experience:

Burbank had relatively recently established a 15-minute time limit per stop on streets, similar to most cities' existing regulations, but eliminated that restriction in March 2011, after being challenged on it. Complaints have resulted since that time, creating expectation that Burbank will revisit the issue. The resulting practical time limitation for food truck stops in Burbank appears to be one hour, since health regulations limit stops to one hour without bathroom access, and the required bathroom permission is typically not available.

Santa Monica had eliminated time limits for on-street stops some time ago, and food truck activity there has been substantial on both streets and private property in recent years. An ordinance there was recently adopted prohibiting food trucks on a certain segment of Main Street during late night bar closing hours that have been especially crowded with food trucks and patrons for safety purposes. Santa Monica anticipates creating an ordinance regulating food trucks on private property in 2012.

Torrance is also beginning proceedings on private property regulations for food trucks.

**EXCERPTS FROM THE FINAL MINUTES OF THE PLANNING COMMISSION
MEETING OF OCTOBER 26, 2011**

commented that having the site remain vacant is an economic impact to the property owner. She said that she feels the City should not interfere with property rights to the extent possible.

In response to a comment from Chairperson Paralusz, Director Thompson pointed out that the Use Permit for the site does not prohibit commercial uses that are not retail. He indicated that the zoning along Sepulveda Boulevard is Commercial General which allows office uses as well as retail uses. He said that good planning principals dictate a mix of uses along the corridor which includes retail and office uses. He restated that the existing Use Permit for the site does not prohibit non-retail uses.

Chairperson Paralusz indicated that she is not able to vote in favor of the proposal without any information from the property owner to demonstrate that the proposed use is the only option for the site rather than a retail use. She said that there is a very low vacancy rate along Sepulveda Boulevard, and she would think that the chances would be fairly high that the subject site could be rented for a retail use.

Commissioner Gross suggested that the applicant consider helping with the cost of adding a pedestrian crossing across Manhattan Beach Boulevard at the traffic light down the street so that it is not necessary to walk to the corner to cross the street. He commented that adding a crossing would be a benefit to the bank, as it would provide a convenience for their customers. He indicated that two commissioners from the Parking and Public Improvements Commission have requested that a pedestrian crossing be added.

A motion was MADE and SECONDED (Andreani/Conaway) to **APPROVE** a proposed bank use replacing a retail use in a commercial development on the property located at 1130 North Sepulveda Boulevard

AYES: Andreani, Conaway, Gross, Seville-Jones
NOES: Chairperson Paralusz
ABSENT: None
ABSTAIN: None

Director Thompson explained the 15-day appeal period and indicated that the item will be placed on the City Council's Consent Calendar for their meeting of November 15, 2011.

10/26/11-3 Consideration of City Council 2011/2012 Work Plan Item for Potential Regulations for Mobile Food Trucks in the City of Manhattan Beach

Director Thompson pointed out that the issue for consideration by the Commission is potential regulations for food trucks on private property. He said that staff will take any comments from the public regarding the issue of food trucks parking on public property; however, the focus of the Commission is regarding regulations for private property. He said that an Ordinance will be brought back to the Commission at a future meeting. He stated that the City Council will also consider an Ordinance regulating food trucks on public streets.

In response to a question from Commissioner Seville-Jones, Associate Planner Haaland indicated that staff did not yet receive information from Burbank and Santa Monica regarding their recent activity pertaining to food trucks.

Commissioner Conaway said that the staff report states that the California Safety Code 114315 requires vehicles parked over one hour to have access to an approved restroom for employees within 200 feet. He asked how the condition is regulated.

In response to a question from Commissioner Conaway, Associate Planner Haaland indicated that the County Health Department would regulate the requirement for an approved restroom in association with food trucks. He commented that he has not seen examples of approved restrooms.

Commissioner Conaway said that the requirement for an approved restroom within 200 feet of food trucks is a critical issue that should be addressed further.

Commissioner Gross asked whether the City can place all of the requirements of a permanent restaurant on mobile food trucks such as for restrooms, parking, and areas for patrons to sit or stand.

In response to a question from Commissioner Gross, Director Thompson said that the City can be very restrictive in regulating food trucks on private property.

In response to a question from Commissioner Andreani, Associate Planner Haaland indicated that there have been comments from downtown business owners in opposition to food trucks. He commented that an e-mail was received from Michael Zislis in opposition to allowing food trucks in the City which has been provided to the Commissioners.

In response to a question from Commissioner Seville-Jones, Director Thompson indicated that the Health Department regulates food trucks.

In response to a question from Commissioner Gross, Director Thompson said that food trucks on private property can be restricted a great deal provided there is good reason. He indicated that food trucks can be regulated differently in different zones.

Commissioner Gross commented that it would seem that the trucks would be appropriate in the PD and IP zones where there are not many restaurants. He indicated that he would like for the City to be very restrictive of food trucks in areas where there are many restaurants.

Director Thompson stated that staff has received complaints regarding food trucks parking on public streets in the downtown area that compete with the local restaurants. He said that staff has not received complaints regarding the food truck in the parking lot for REI on Rosecrans Avenue. He commented that managers of shopping centers are sensitive to the needs of their tenants and want to ensure that food trucks would not interfere with their businesses. He said that staff is suggesting that a temporary use permit be added to the Code for food trucks on private property with certain standards.

In response to a question from Commissioner Conaway, Director Thompson indicated that food trucks do provide revenue to the City provided that they are charging sales tax for their food.

Commissioner Conaway commented that it is important to consider whether food truck generate sales tax revenues, as it would place them more on the same level as regular restaurants.

Chairperson Paralusz stated that she would like further information regarding the enforcement of the regulations of the Health Department regarding issues such as trash disposal and oil disposal. She indicated that she would also like further information regarding enforcement of collecting sales tax revenues for food trucks.

In response to a question from Chairperson Paralusz, Director Thompson said that food trucks would require proof of insurance to operate in the City. He indicated that the City may need to

adopt the County's letter grading standards for vehicles in order to have the Health Department grading be required for food trucks.

Public Input

Harold Rothman, a resident of Hermosa Beach, the owner of Manhattan Beach Creamery, said that he sees the benefit of having food trucks in industrial areas. He indicated, however, that they have had a problem with a food truck that parked in front of their business. He commented that he is concerned with future policies regarding food trucks. He indicated that it is the responsibility of the City Council to act as the common owner and protect the downtown businesses.

In response to a question from Chairperson Paralusz, **Mr. Rothman** commented that it is the discretion of the property owner whether or not they would choose to allow food trucks in parking lots of privately owned shopping centers.

Jason Alder, representing the Manhattan Beach Creamery, said that they make most of their money in the summer. He indicated that it is difficult for their business to compete with a mobile business that can leave for another location when business is slower after the summer. He commented that having food trucks in the downtown area is different than in the REI shopping center where they are not directly competing with the adjacent businesses for food sales. He indicated that the operators of the food trucks do not have roots and do not help in the community. He stated that he does not feel the trucks fit in with the City.

Robert Escowitz, representing Manhattan Pizzeria, stated that a couple of food trucks were in the downtown area for the entire summer. He indicated that the trucks were parked at parking meters on Fridays and Saturdays throughout the summer and took business away from local restaurants. He indicated that the trucks were given tickets by the police, but the operators were willing to pay the ticket. He said that the trucks would remain until 2:00 a.m. He pointed out that the pizzeria pays rent and tax revenue to the City. He commented that patrons of the food trucks would put their trash in the public trash cans. He said that the awnings from trucks blocked the sidewalk and left little room left to walk past. He indicated that food trucks should be permitted in industrial areas and not in the downtown area where there is a concentration of restaurants.

Chairperson Paralusz closed the public hearing.

Commission Discussion

Commissioner Conaway said that he would like further information as to whether it is necessary to allow food trucks somewhere within the City as part of a first amendment right as with tattoo studios.

Director Thompson pointed out that food trucks must be allowed on public streets with appropriate restrictions. He indicated that further restrictions can be placed on food trucks depending on the area and the traffic conditions. He indicated that staff would consider the downtown area and North End as sensitive areas. He indicated that he is not certain that the City would want to entirely restrict food trucks from private property.

Commissioner Conaway indicated that there does not seem to be an objection to allowing food trucks in industrial areas.

Commissioner Gross stated that he would want food trucks to be restricted in areas where there is a density of restaurants.

Commissioner Conaway suggested that food trucks be allowed on private property for certain districts and restricted in the downtown area. He indicated that he would like for the Ordinance to allow food trucks in certain zones.

Commissioner Gross pointed out that there are portions of the Sepulveda Corridor where there is a concentration of restaurants and other portions where there is not. He indicated that it is not fair for restaurants that are in business all year to have to compete with food trucks that are only in the area during the busy season. He commented that it is up to the City Council to enact a policy as to whether the City should continue to encourage the existing restaurants and not create an obstacle for their success.

Commissioner Andreani stated that she would not support allowing food trucks in the downtown area and the North End. She said that the streets and sidewalks do not have sufficient space to allow for food trucks, and she has seen people have to walk into the street to go around them. She indicated that she would support establishing a temporary use permit process to allow food trucks on private property. She commented that she would support adding language in the findings and purpose section of the Ordinance to explain the reason for the rules and regulations such as was included in Santa Monica. She also suggested that definitions be included in the Ordinance for Manhattan Beach as was done in Santa Monica, Redondo Beach, and El Segundo. She stated that she feels the fees for violations should be high. She commented that the permits should also include hours of operation and responsibility for cleaning up any trash that is generated. She commented that she likes the idea of requiring the letter grade rating by the County for food trucks. She said that there should also be a noise limit imposed for food trucks. She indicated that she feels food trucks should not be permitted to provide samples to customers.

Commissioner Seville-Jones stated that she would also support establishing a temporary use permit process for allowing food trucks on private property. She said that she would want to limit the number of times that a particular food truck is allowed to park in the community. She indicated that she does not feel that food trucks are appropriate in residential areas, the North End, or downtown areas. She indicated that she feels there is self regulation for privately owned shopping centers, as there is limited space and the owners would not want to hurt the business of any of their tenants. She said that she would not want to restrict the rights of private property owners to have food trucks within zones that are appropriate. She commented that she also feels that the fees for the temporary use permits should be high. She said that she would hope that the issue of collecting sales tax from food trucks is addressed. She indicated that it is not fair for food trucks to compete with local restaurants that pay a great deal of rent when the trucks can park in front of the restaurants for the cost of a parking meter. She said that having the trucks on the streets is a burden to the local businesses.

Chairperson Paralusz indicated that she is concerned with the safety issue of food trucks blocking access, as the sidewalks in the City are small. She stated that she would not support allowing food trucks on private property near residential areas. She said that she generally supports the right of private property owners to open up their property to food trucks within reasonable limits. She commented, however, that food trucks should not be allowed in the North End and downtown area because those areas are very congested and do not have much space. She suggested that food trucks be permitted in areas such as in the REI parking lot and Bristol Farms parking lot along Rosecrans Avenue. She stated that she would not support allowing food trucks in the Manhattan Village parking lot, as there are many restaurants that

are part of the shopping center. She commented that food trucks may be welcomed by employees of Northrop Grumman along Aviation Boulevard.

Chairperson Paralusz indicated that she would want to ensure that the City strictly enforces the Use Permit and County health regulations for food trucks, particularly regarding access to restrooms, disposal of trash and grease, and amplified noise. She said that she would want to require that the County health letter grades be prominently displayed as is required for restaurants in the City. She commented that requiring the letter grade would provide an incentive for the truck owners to remain in compliance with County health standards in order to receive a high mark. She suggested that staff contact the Chamber of Commerce to ask for their input regarding food truck regulations.

Commissioner Gross indicated that he is particularly concerned with the density of restaurants in the CG zone. He suggested that food trucks be required to park a certain distance from restaurants and that a minimum distance be required between food trucks.

Commissioner Andreani commented that she would not want to interfere with the rights of private property owners but would want to be sure that the parking requirements for the shopping centers are recognized.

Director Thompson commented that staff plans to bring more information to the Commission regarding the item at their meeting of December 14, 2011.

5. DIRECTORS ITEMS

Director Thompson stated that the Environmental Impact Report is being prepared for the Manhattan Village mall project. He commented that the report has taken a long time to complete because many changes have been made to the project. He said that staff advised the applicant against their request to contact the Planning Commissioners individually to provide briefings regarding the project. He indicated that staff is suggesting that a community forum be held once the applicant is ready to publish the Environmental Impact report.


6. PLANNING COMMISSION ITEMS


Commissioner Seville-Jones commented that the Commissioners received an e-mail from **Nate Hubbard** regarding violations of the operating hours for the Shade Hotel. She asked whether staff has information regarding enforcement that has been taken for any violations.

Director Thompson indicated that the Police Department is aware of the concerns expressed by **Mr. Hubbard** regarding the hotel. He said that staff is working with the Police Department to ensure that the current Use Permit is being enforced. He commented that the Use Permit that was granted last year allows the hotel to remain open until midnight; however, that entitlement is not allowed until the improvements are completed that were agreed to by **Mike Zislis**. He indicated that the entitlement is not yet permitted, as the improvements have not been completed. He indicated that **Mr. Zislis** is having problems with providing fire access with enclosing the entry way and balcony areas. He said that the requirement for closing at 11:00 p.m. during the week will be enforced.

**CITY OF MANHATTAN BEACH
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning Commission

FROM: Richard Thompson, Director of Community Development 

BY: Eric Haaland, Associate Planner 

DATE: October 26, 2011

SUBJECT: Consideration of City Council 2011/2012 Work Plan Item for Potential Regulations for Mobile Food Trucks in the City of Manhattan Beach

RECOMMENDATION

Staff recommends that the Planning Commission **DISCUSS** the issue of food truck regulations and **PROVIDE DIRECTION** as determined to be appropriate.

BACKGROUND

The City has traffic regulations regarding “peddlers and vendors” (MBMC 14.36.130 – Attachment A) that restrict commercial operations of any “vehicle, wagon, or pushcart” on City streets. These regulations are antiquated and inconsistent with current State regulations and case law and need to be updated. Lunch and ice cream trucks are traditional examples of these businesses operating with permits, time limits, and designated routes/locations. Recent popularity in Gourmet Food Trucks, and State laws limiting city restrictions on such vehicles have caused many cities to reconsider their applicable regulations. On March 1, 2011, the City Council adopted its annual work plan which directed that Manhattan Beach Food Truck guidelines and practices be updated. While most regulations and recent interest in this subject are related to public property, Food Truck operation on private property should also be addressed. The Planning Commission is responsible for reviewing amendments to the City’s Zoning Code, which regulates use of private property.

DISCUSSION

The material attached as Attachment B includes city ordinances, and articles related to Food Trucks on city streets. Many cities have similar requirements such as permits, time limits, and locational restrictions that apparently conflict with State law. The cities of Burbank and Santa Monica are currently revising their regulations and an update will be provided at the Planning Commission meeting. While the Planning Commission does not

have authority over this set of regulations, street vending is likely to be discussed during its consideration of this item. At least one recurring case of a Food Truck operating on Downtown Manhattan Beach streets has received attention. The attached letter representing an association of Food Trucks refers to State Vehicle Code Section 22455 (Attachment C) preempting cities from regulating Food Trucks beyond public health, safety, and legal parking on city streets. Specific items that should be addressed in these categories include: vehicle and pedestrian obstructions, noise, trash, restroom access, street slope, signs on sidewalks, and parking/safety issues applicable to certain locations. State health code regulations (Calif. Safety Code 114315 – Attachment D) require vehicles parked over one hour to have access to an approved restroom for employees within 200 feet.

Recent interest in Food Truck operation has also occurred in off-street situations. At least one School District sponsored event featuring a group of food trucks occurred on school property this year. Common food truck activities generating recent interest that are relevant to Planning Commission/zoning authority involves stationing them in private commercial parking lots.

Currently, significant events, such as “Street Fairs”, that occur in commercial parking lots require administrative Temporary Use Permits (MBMC 10.16.020). Food service is typically involved with these, but there are usually additional components of entertainment or interest. A Food Truck-only event would be eligible for the same permit, which requires a plan, a \$595 fee, and about 3 weeks of staff review as the application is circulated to relevant departments for review. Comments from Food Truck representatives have indicated this process (MBMC Section 10.84.110 attached) to be impractical for small and recurring food truck events that they are often interested in. If the Planning Commission supports this type of temporary activity, it may be appropriate to amend the Zoning Code to create a new temporary use oriented toward Food Trucks.

The attached Zoning Code excerpt of currently permitted temporary uses includes useful examples being “Street Fairs”, and “Outdoor Retail Sales”. “Street fairs” does not contain restrictions within its definition, but requires a use permit per commercial land use regulations. “Outdoor Retail Sales” does not require a use permit, but contains length, frequency, and operator restrictions in its definition and requires a Temporary Use Permit. If a food truck event classification is created, it may be appropriate to combine the temporary use permit requirement with time, frequency, location, and supervision restrictions within its definition to ensure that the use is temporary, not disruptive to the surrounding area, and health and safety issues are adequately addressed.

CONCLUSION

Staff recommends that the Planning Commission accept public testimony, discuss any general food truck comments and issues, discuss private property zoning implications of food trucks, and direct staff as determined to be appropriate.

Attachments:

- A. MBMC 14.36.130
- B. Food Truck ordinances
- C. State Vehicle Code 22455
- D. Calif. Safety Code 114315
- E. Food Truck articles – Glendale News 10/6/11, Pasadena Star News 10/4/11
- F. Letter dated 11/22/10, from SCMFVA
- G. Temp. use zoning excerpts

MANHATTAN BEACH

14.36.130 - Unlawful parking—Peddlers, vendors.

A. Except as otherwise provided in this section no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or food stuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon or eating car or vehicle, on any portion of any street within this City except that such vehicles, wagons or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten (10) minutes at any one place, provided two lanes of unobstructed travel remain, one lane in each direction. The provisions of this subsection shall not apply to persons delivering such articles upon order of, or by agreement with a customer from a store or other fixed place of business or distribution.

B. No person shall park or stand on any street any lunch wagon, eating cart or vehicle, or pushcart from which tamales, peanuts, popcorn, candy, ice cream or other articles of food are sold or offered for sale without first obtaining a written permit to do so from the Chief of Police, which shall designate the specific location in which such cart shall stand.

C. No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a written permit to do so from the Chief of Police which shall designate the specific location where such vehicle may stand.

D. Whenever any permit is granted under the provisions of this section and a particular location to park or stand is specified therein, no person shall park or stand any vehicle, wagon, or pushcart on any location other than as designated in such permit. In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of this section, such permit shall be forthwith revoked by the Chief of Police upon the filing of the record of such conviction with such officer and no permit shall thereafter be issued to such person until six (6) months have elapsed from the date of such revocation.

E. The fee for any permit issued under this section shall be established by Council under separate resolution.

Santa Monica Municipal Code

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Article 6 BUSINESS, PROFESSIONS AND TRADES

Chapter 6.36 VENDING**6.36.010 Findings and purpose.**

The City Council of the City of Santa Monica finds and declares as follows:

(a) The City is extremely dense with a land area of just eight square miles and a population of approximately ninety thousand people. Moreover, the combination of an oceanside location, fine climate, and the availability of urban facilities, services and entertainments make the City an extremely desirable place to work or visit. Consequently, a large number of nonresidents come into the City to work or recreate each day. On weekdays, approximately three hundred thousand people are present within the City. On weekends, the number swells to as high as five hundred thousand. Thus, population density and congestion both present threats to the quality of life in the City, particularly in the City's downtown business district which is the most crowded area within the City.

(b) To protect the public health and safety and ensure safe pedestrian and motorist traffic, the City needs equitable, uniform vending regulations.

(c) Unregulated vending, from pushcarts, motor vehicles, stands, or by persons contributes to traffic congestion and

thereby impedes the orderly movement of pedestrian and motorist traffic. The unregulated use of congested streets and sidewalks by vendors may make the streets and walkways unsafe for motorists, pedestrians, and vendors.

(d) The City has adopted a series of comprehensive plans and development guides which promote the City's aesthetic interests generally and the aesthetics of its public space specifically. Included among these plans are the Bayside District Specific Plan, the Downtown Urban Design Plan, and the Santa Monica Pier Design Guidelines. Through the adoption of these plans and specific legislation, the City is affirmatively seeking to eliminate visual blight on the public rights-of-way, including the visual blight caused by unsightly vendor stands. Santa Monica is designed to be a city where people are encouraged and able to walk through a safe and attractive street environment.

(e) The City presently has a vibrant and stable merchant community. Uncontrolled street vending would constitute unfair competition and could serve to undermine the City's commercial life by reducing sales from local merchants and eroding the City's tax revenues. (Prior code § 6281; added by Ord. No. 1495CCS, adopted 9/26/89; amended by Ord. No. 1888CCS, § 2, adopted 10/28/97)

6.36.020 Definitions.

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) **Food or Food Products.** Any type of edible substance or beverage.

(b) **Goods or Merchandise.** Any items that are not a food product.

(c) **Vend or Vending.** To sell, offer for sale, expose for sale, solicit offers to purchase, or to barter food, goods, merchandise, or services in any public area from a stand, pushcart, motor vehicle, or by a person with or without the use of any other device or other method of transportation. To require someone to pay a fee or to set, negotiate, or establish a fee before providing goods or services constitutes vending. Requests for donations in exchange for merchandise also constitute vending.

(d) **Vendor.** A person who vends. This includes a vendor who is an employee or agent of another. A person engaged in the business of soliciting, canvassing, or taking orders subject to the regulations in Chapter 6.24 is not a "vendor."

(e) **Pushcart.** Any nonmotorized mobile device used in the sale, barter, or offer for sale of food products, goods, or merchandise or services.

(f) **Vehicle.** Any motorized device used in the sale, barter, or offer for sale of food products, goods, or merchandise or services. (Prior code § 6282; added by Ord. No. 1495CCS, adopted 9/26/89; amended by Ord. No. 1712CCS § 1, adopted 11/23/93; Ord. No. 1888CCS § 3, adopted 10/28/97; Ord. No. 1949CCS § 1, adopted 7/20/99)

6.36.030 Exemptions.

The provisions of this Chapter shall not apply to:

- (a) Any approved participant in any farmer's market;
- (b) Any approved participant in any cultural arts and crafts show (pursuant to Chapter 6.44);
- (c) Any vendor operating pursuant to or under the authority of an approved license agreement;
- (d) Any approved participant in any community event authorized by the City;
- (e) Any individual vending newspapers, leaflets, pamphlets, bumper stickers or buttons;
- (f) Any individual or organization that vends the following items which are inherently communicative, have nominal utility apart from their communication, and have been created, written, or composed by the vendor: books; recorded music, poetry, prose, sculptures, paintings, prints, or photographs. (Prior code § 6283; added by Ord. No. 1495CCS, adopted 9/26/89; amended by Ord. No. 1888CCS, § 4, adopted 10/28/97; Ord. No. 1901CCS § 1, adopted 2/17/98; Ord. No. 1949CCS § 2, adopted 7/20/99; Ord. No. 2075CCS § 10, adopted 5/13/03; Ord. No. 2153CCS § 3, adopted 3/8/05; Ord. No. 2337CCS § 8, adopted 12/14/10)

6.36.040 Vendor permit required.

(a) No person may vend in the City without first obtaining and having in his or her possession a vendor permit issued by the Chief of Police in accordance with this Chapter.

(b) To receive a vendor permit, a person must complete a vendor permit application on the form approved by the City and file it with the City. The applicant must provide the following information:

- (1) Applicant's full name and address.
- (2) Proof of applicant's identity.
- (3) Proof of insurance coverage satisfactory to City.
- (4) A brief description of the type of food products or goods to be sold. This shall include the nature, character and quality of the product.
- (5) The location where the applicant plans to vend.
- (6) If applicant is employed by another to vend, the name and business address of the employer.
- (7) If applicant will use a motor vehicle during his or her vending, a description of the vehicle, its registration number, its license number, and the streets the applicant intends to use.
- (8) If applicant will use a pushcart or any other device, a description of the pushcart or device.
- (9) If applicant will vend food products, a valid Los Angeles County Department of Health permit

and certification that he or she complies with all State and Federal laws regarding food product vending.

(c) No application for a vendor permit or the renewal thereof shall be accepted unless the application is accompanied by a fee of twenty-five dollars.

(d) A permit pursuant to Section 6.14.020 shall not be required if a vendor permit is issued pursuant to this Chapter. (Prior code § 6284; added by Ord. No. 1495CCS, adopted 9/26/89; amended by Ord. No. 1851CCS § 20 (part), adopted 5/28/96)

6.36.050 Vendor permit issuance and denial.

(a) Upon receipt of a written application for a vendor permit, the Chief of Police shall conduct an investigation as it deems appropriate to determine whether a vendor permit should be approved. Except with respect to vendor permits subject to Section 6.36.070, a vendor permit shall be approved, conditionally approved, or denied within thirty days of the filing of an application. The vendor permit shall be approved unless one of the following findings is made:

(1) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process.

(2) The application does not contain the information required by this Chapter.

(3) The applicant has not satisfied the requirements of this Chapter.

(4) The applicant has not been selected in accordance with the procedure set forth in Section 6.36.070.

(b) The Chief of Police may condition the approval of any vendor permit to ensure compliance with this Chapter and other applicable laws.

(c) A vendor permit issued by the Chief of Police may be revoked pursuant to the provisions of Section 6.14.110 of this Code.

(d) Upon approval or conditional approval of a vendor permit by the Chief of Police, it shall be submitted by the applicant to the Director of Finance who shall issue a business license upon payment of the license fee. The license fee shall be fifty dollars per annum and no additional license fee shall be required by virtue of vending in any assessment district.

(e) Except as provided for in Section 6.36.070, a vendor permit issued hereunder shall be effective for the same period as the business license. Upon the expiration of the vendor permit, an application for renewal thereof shall be filed in a like manner as an application for an original vendor permit, and such renewal permit shall be approved only when the requirements for the issuance of an original vendor permit are met.

(f) A vendor permit shall not be assignable or transferable. (Prior code § 6285; added by Ord. No. 1495CCS, adopted 9/26/89; amended by Ord. No. 1851CCS § 20 (part), adopted 5/28/96)

6.36.060 Appeals.

Except as provided for in Section 6.36.070, any decision of the Chief of Police under this Chapter denying an application, conditionally approving an application, or revoking a permit, may be appealed by an aggrieved applicant or permit holder. Any appeal must be taken within the time and manner set forth in Section 6.16.030 of this Code. Upon an appeal, the decision of the Hearing Examiner shall be final except for judicial review and shall not be appealable to the City Council. (Prior code § 6286; added by Ord. No. 1495CCS, adopted 9/26/89; amended by Ord. No. 1851CCS § 20 (part), adopted

5/28/96)

6.36.090 Vendor location sites.

No person issued a vendor permit pursuant to this Chapter shall vend in any location in the City except in connection with vending from vehicles, such as catering or ice cream trucks, on any street designated in the vendor permit or on private property. (Prior code § 6289; added by Ord. No. 1495CCS, adopted 9/26/89; amended by Ord. No. 2153CCS § 5, adopted 3/8/05)

6.36.100 General requirements.

(a) **Location Restrictions.** No person may vend:

(1) Within ten feet from the outer edge of any entrance of any business, including, but not limited to: doors; vestibules; driveways; outdoor dining area entries; and emergency exits as measured in each direction parallel to the building line, during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises.

(2) Within ten feet of any bus stop.

(3) Within ten feet of any street corner or marked pedestrian crosswalk.

(4) Within thirty-five feet of any other vendor.

(5) In any manner that blocks or obstructs the free movement of pedestrians.

(b) **Vending or Renting on Beaches and Public Parks Prohibited.** All vending activity on the beaches and in public parks is prohibited. No vendor permit shall be issued to any person for the vending of any food products, goods, or merchandise, or the renting of any types of goods, merchandise, or services on the beaches and in public parks in the City of Santa Monica.

(c) **Receipts.** Upon request by a buyer, a vendor shall give a receipt to the buyer. The receipt shall list the following:

(1) The vendor's name.

(2) The vendor's City vendor permit number.

(3) The vendor's address or telephone number.

(4) The items sold.

(5) The price of each item sold.

(6) The total price of all items sold.

(d) **Cleanup Responsibility.** A vendor shall keep his or her vending or performing area litter free. He or she must remove litter caused by his or her products off of any public property and other private property. A vendor with a pushcart shall have a trash container in or on the cart.

(e) **Noise Limit.** Except as provided for in this Chapter, a vendor shall be subject to the provisions of Chapter 4.12 of Article 4 of this Code. Vendors within the Third Street Promenade shall be subject to the noise regulations in Chapter 6.116. In addition, no vendor shall be so loud as to be heard inside the premises of an adjacent building or structure while the entrance door to the premises is closed.

(f) **Pushcart Standards.** A vendor's pushcart (or other device) shall be kept clean and in a safe condition when used on public property. The pushcart shall display the following:

(1) The vendor's name, business name, and City permit number on all vertical sides of the cart. The lettering shall be at least one inch high. A food vendor shall include his or her Los Angeles County

Department of Health permit number.

(2) A photocopy of the vendor's City vendor permit on at least two vertical sides of the cart.

(g) **Compliance with Conditions.** No person shall vend contrary to the terms or any conditions imposed in approving a vendor permit pursuant to this Chapter. (Prior code §6290; added by Ord. No. 1495CCS, adopted 9/26/89; amended by Ord. No. 1712CCS § 3, adopted 1/23/93; Ord. No. 1888CCS, § 5, 10/28/97)

6.36.110 Sampling on the Pier and Third Street Promenade.

No person may engage in the activity of distributing samples of goods, wares, merchandise, products or services on the Municipal Pier, Newcombe Pier or Third Street Promenade without a permit or license from the Bayside District Corporation or Pier Restoration Corporation issued in accordance with the corporation's services agreement with the City. Any such license or permit shall be conditioned so as to ensure compliance with applicable laws and to protect the free flow of pedestrian traffic, emergency ingress and egress, the aesthetic qualities of these public spaces, and public access to all businesses and services. (Added by Ord. No. 2221CCS § 1, adopted 3/13/07)

6.36.140 Penalties.

(a) Except as provided in subsection (b) of this Section, any person violating this Chapter shall be guilty of an infraction which shall be punishable by a fine not exceeding two hundred fifty dollars per violation.

(b) Any person violating Section 6.36.040 shall be guilty of an infraction which shall be punishable by a fine not exceeding two hundred fifty dollars, or a misdemeanor, which shall be punishable by a fine not exceeding one thousand dollars per violation, or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment. (Added by Ord. No. 1949CCS § 3, adopted 7/20/99; amended by Ord. No. 2047CCS § 12, adopted 7/9/02)

Hermosa Beach

10.32. 170 Vendors' Wagons and Pushcarts--Parking and Standing.

Except as otherwise provided in Sections 10.32.180 to 10.32.200, no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon or eating cart or vehicle, on any portion of any street within this city except that such vehicles, wagons or pushcarts may stand or park within a legal parking space only at the request of a bona fide purchaser for a period of time not to exceed ten minutes at any one place. The provisions of this section shall not apply to persons delivering such articles upon order of or by agreement with a customer from a store or other fixed place of business or distribution. (Prior code § 19-70)

10.32. 180 Vendors' Wagons and Pushcarts--Designation of Standing Location.

No person shall park or stand on any street any lunch wagon, eating cart or vehicle or pushcart from which tamales, peanuts, popcorn, candy or other articles of food are sold or offered for sale without first obtaining a permit to do so from the city council. The city traffic engineer shall designate the specific location in which such cart shall stand. (Prior code § 19-71)

10.32. 190 Vehicles for Hire not to Park or Stand without Permit--Designation of Standing Locations.

No person shall park or stand any vehicle or wagon used or intended to be used in the transportation of persons or property for hire on any street while awaiting patronage for such vehicle or wagon without first obtaining a permit to do so from the city council. The city traffic engineer shall designate the specific location where such vehicle may stand. (Prior code § 19-72)

10.32. 200 Compliance with Permits for Parking or Standing--Revocation of Same.

In the event that the holder of any such permit is convicted in any court of competent jurisdiction for violating any of the provisions of Sections 10.32.170 to 10.32.190, such permit shall be forthwith revoked by the city council upon the filing of the record of such conviction with the city manager and no permit shall thereafter be issued to such person until six months have elapsed from the date of such revocation. (Prior code § 19-73)

12.12.070 Placing wagons , stands in streets for purposes of sale or display of goods.

It is unlawful for any person to place or permit to be placed any wagon, cart, stand, box, table, counter or any other obstruction of any kind or any portion thereof on any public street, sidewalk, alley, park or other public place in the city for the purpose of dispensing, selling, bartering, delivering or giving away therefrom any food, refreshments, drinks or other goods, wares or merchandise.

A. Exception. Temporary use of the public sidewalk may be allowed for established local businesses for merchandise display and outside dining when authorized by the director of public works by special permit as part of a temporary event, such as a sidewalk sale.

A permit shall be obtained by each participating business, or a blanket permit may be obtained by a sponsoring organization specifically listing all participants. The participating businesses and the sponsoring organization shall take responsibility for compliance with the terms of said permit.

Fees, conditions and guidelines based on uniform, objective criteria, for obtaining such a permit shall be set by the city council, by resolution, with fees sufficient to cover the city's cost of issuing the permit. The director of public works will establish the standard conditions of said permit to protect the public health, safety and welfare.

B. Exception. Temporary use and closure of public streets may be allowed for specials events, street festivals, farmer's markets or street fairs when authorized by the city council by special permit as part of a temporary special or promotional event.

A permit shall be obtained by each participating business or vendor, or a blanket permit may be obtained by a sponsoring organization specifically listing all participants. The participating businesses and the sponsoring organization shall take responsibility for compliance with the terms of said permit.

Fees, conditions and guidelines based on uniform, objective criteria, for obtaining such a permit shall be set by the city council, by resolution, with fees sufficient to cover the city's cost of issuing the permit. The director of public works will establish the standard conditions of said permit to protect the public health, safety and welfare. (Ord. 94-1107 § 1, 1994; Ord. 94-1100 § 1, 1994; prior code § 29-7)

4-2-26: FOOD CATERERS (VEHICLE):

Every person conducting sales of food from a vehicle shall pay a business license tax of two hundred dollars (\$200.00) per year per vehicle. (Ord. 1252, 4-9-1996)

4-2-42: TRANSIENT VENDORS, MERCHANTS:

A. Transient Food Vendors: Every transient food vendor shall pay a business license tax of forty eight dollars (\$48.00) per day, and shall obtain a special permit from the City Council to do so prior to engaging in such activities. The City Council may condition such permit in any manner not prohibited by law.

B. Transient Merchants: Every transient merchant, which shall include all such persons doing business at a fixed place of business for a period of less than thirty (30) consecutive days, and who does not deal exclusively in food or foodstuffs for human consumption, shall pay a business license tax of forty dollars (\$40.00) per day.

C. Transient Merchant At Fairs: Notwithstanding subsection B of this Section, every transient merchant, which shall include any person doing business at a fixed place of business for a period of less than thirty (30) consecutive days and who is participating in a charitable or a civic event such as a fair, shall pay a business license tax of ten dollars (\$10.00), which shall cover the period during which the charitable or civic event is open to the public. (Ord. 1252, 4-9-1996)

8-5-13: GOODS SOLD FROM PARKED VEHICLES:

A. Prohibited; Exception: Except as otherwise provided in this Code, no person shall stand or park any vehicle, wagon or pushcart from which goods, wares, merchandise, fruits, vegetables or foodstuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch vehicle or eating car or vehicle, on any portion of any street within the City, except that such vehicles, wagons, or pushcarts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten (10) minutes at any one place. The provisions of this subsection shall not apply to persons delivering the articles upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution.

B. Transporting Property; Permit Required:

1. No person shall park or stand any vehicle used or intended to be used in the transportation of property for hire on any street while awaiting patronage for the vehicle without first obtaining a written permit to do so from the City Traffic Engineer which shall designate the specific location where the vehicle may stand.

2. Whenever any permit is granted under the provisions of this Section and a particular location to park or stand is specified therein, no person shall park or stand any vehicle or pushcart on any location other than as designated in such permit. In the event that the holder of the permit is convicted in any court of competent jurisdiction for violating any of the provisions of this Section, the permit shall be forthwith revoked by the City Traffic Engineer upon the filing of the record of the conviction with the officer and no permit shall thereafter be issued to the person until six (6) months have elapsed from the date of the revocation. (Ord. 659, 3-13-1967; amd. 2000 Code)

Redondo Beach

3-7.2002 Definitions.

For the purpose of this article the words set out in this section shall have the following meanings:

“Public way” shall mean all areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the interior and areas surrounding public buildings.

“Stand” shall mean any table, bench, booth, rack, handcart, pushcart, or any other fixture or device which may or may not be required to be licensed and registered by the Department of Motor Vehicles and is used for the display, storage, or transportation of articles offered for sale by a **vendor**.

“**Vendor**” shall mean any individual, including an employee or agent of a group of individuals, partnership, or corporation, who sells or offers to sell food, beverages, goods, wares, or merchandise on any public way from any stand, pushcart, other human powered device, or from any lunch truck or motor vehicle powered device. (§ 1, Ord. 2702 c.s., eff. September 16, 1993)

3-7.2003 Business license and permit required.

It shall be unlawful for any person to sell, display, or offer for sale any food, beverage, goods, wares, or merchandise from any stand on any public way within the City without first obtaining a business license and **vendor**'s permit therefor from the City Treasurer. (§ 1, Ord. 2702 c.s., eff. September 16, 1993)

3-7.2004 Limitation of vending sales.

No permit shall be issued for sales of food, beverage, goods, wares, or merchandise from any stand or **vendor**'s vehicle other than for specifically designated areas. With regard to that area in the City on the west side of the Esplanade between Knob Hill and Paseo de la Playa; the four (4) locations within said area for which permits may be issued pursuant to Section 3-7.2008, will be designated by the City Manager's office. (§ 1, Ord. 2702 c.s., eff. September 16, 1993)

3-7.2006 Application.

(a) The application for a vending permit shall be filed with the City Treasurer and shall contain all information relevant and necessary to determine whether a particular permit may be issued, including but not limited to:

(1) Full name, home address, permanent business address (if any), telephone number, and driver's license number;

(2) A brief description of the nature, character, and quality of the food, beverages, goods, or merchandise to be sold;

(3) If **vendor** is employed by or is an agent of another, the name and business address of the principal/hiring person, firm, association, organization, company or corporation;

(4) A complete listing of any other permits or permits issued to applicant by the City within the past five (5) years;

(5) Any permits issued or required by the Los Angeles County Health Department.

(b) Except for the year 1993-94, all applications for a vending permit shall be received by the City Treasurer no later than December 15 of the year prior to which the permit is to be issued.

(§ 1, Ord. 2702 c.s., eff. September 16, 1993, as amended by § 1, Ord. 2711 c.s., eff. November 18, 1993)

3-7.2007 Health permits.

The application of any **vendor** engaged in the sale of food or beverages shall also be referred to the Los Angeles County Health Department for approval of a health permit in addition to the regular vending license. Such **vendor**'s equipment shall be subject to inspections by the Health Department at the time of application and at periodic intervals thereafter. (§ 1, Ord. 2702 c.s., eff. September 16, 1993)

3-7.2011 Display of permits.

(a) The permit issued to a **vendor** shall be with the **vendor** at all times when he or she is engaged in the business of vending. If the **vendor** sells food or beverages, the health permit must be displayed.

(b) Permits shall be displayed only by the person to whom they were issued and may not be transferred to any other person. (§ 1, Ord. 2702 c.s., eff. September 16, 1993)

3-7.2012 General regulations.

The following regulations are applicable to vendors with vending permits:

(a) Size of stands. Vendors stands shall not exceed six (6') feet in length, fifty-three (53") inches in width, or six (6') feet in height. Vendors are prohibited from blocking the public right-of-way beyond their area of immediate operation and are required to minimize their interference with pedestrian traffic.

(b) Hours of operation. It is unlawful for vendors to engage in the business of vending between the hours of 8:00 p.m. and 10:00 a.m. When temporary vending permits are sought for special events, pursuant to Section 6-3.07, the applicant may request from the City an exception to the usual hours of operation. All stands used for vending must be removed from public property during non-operating hours.

(c) Removal of trash. All trash or debris accumulating within fifty (50') feet of any vending stand shall be collected by the **vendor** and deposited in a trash container. All vendors selling food or beverages must provide trash receptacles adjacent to a part of their stands.

(d) Noise. No **vendor** may sound any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention.

(e) Glass containers. Vendors are not permitted to sell or dispense items of food or drink in glass containers which would be carried away by the customer after purchase.

(f) Sale of food items only. Vendors are permitted to sell only items of food or drink. Additional goods, wares, or merchandise of non-food character will not be allowed sold from vendors' carts. (§ 1, Ord. 2702 c.s., eff. September 16, 1993)

4-9.802 Prohibited activities.

(a) Dogs. Dogs with or without a leash are hereby prohibited on any portion of the area described in this article. Any person permitting a dog to be in said area with or without a leash shall be guilty of a misdemeanor.

(b) Bicycles. It shall be unlawful for any person to ride a bicycle within the area described in this article; provided, however, bicycle riding shall be permitted on any portion of said area designated as a bicycle path.

(c) Skateboards. It shall be unlawful for any person to ride or propel any skateboard or similar device (including roller skates) along, across, upon, or within the area described in this article.

(d) Entertainers. It shall be unlawful for any person to conduct or furnish any entertainment on any public portion of the area described in this article unless:

(1) Such person has in his or her possession a bona fide lease, sublease, license, or permit consented to or issued by the City; and

(2) Such person is within an area specifically designated by the City for entertainment activities; and

(3) Such person is conducting or furnishing entertainment in compliance with all entertainment regulations promulgated by the City Manager or his designated representative.

For the purposes of this subsection, "entertainment" shall mean any presentation or activity of any nature which is designed or intended to divert, amuse, or attract the attention of persons observing such presentation or activity, including, but not limited to, the display of mental or physical agility.

(e) Off-premises sales of beverages in glass bottles.

(1) Definitions. For the purposes of this subsection, the following words and phrases shall be defined as follows:

(i) "Glass container" shall mean any airtight sealed device made of glass, plastic, or other materials which container directly holds or contains liquids and which is capable or likely to shatter when dropped or thrown upon a solid surface.

(ii) "Sale" shall mean a commercial transaction by any person, firm, individual, corporation, partnership, or vendor in which transaction beverages are sold directly to the public for a monetary consideration for the purposes of off-premises consumption. "Sale" shall not include a transaction for the purpose of reselling.

(2) Sales of bottled drinks. It shall be unlawful to sell, in the Fisherman's Wharf Area, any liquid contained in any glass container to be consumed by a person off the premises on which the container is sold. (§ 1, Ord. 2236 c.s., eff. May 31, 1978, as amended by § 1, Ord. 2317 c.s., eff. December 30, 1981)

Section 3-69. Parking Limit. Vendors.

Unless a permit therefor has been duly obtained pursuant to the provisions of this Article, it shall be unlawful for any person to stand or park any vehicle, wagon or push-cart from which goods, wares, merchandise, fruits, vegetables or food stuffs are sold, displayed, solicited or offered for sale or bartered or exchanged, or any lunch wagon, or eating car or vehicle, on any portion of any street within the City, except that such vehicles, wagons or push-carts may stand or park only at the request of a bona fide purchaser for a period of time not to exceed ten minutes at any one place. The provisions of this Section shall not apply to persons delivering such articles upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution.

Section 3-70. Vendors. Permit.

It shall be unlawful for any person to park or stand on any street, any lunch wagon, eating car or vehicle, or push-cart from which tamales, peanuts, popcorn, candy or other articles of food or refreshment are sold or offered for sale without first obtaining a written permit so to do from the Permits and Licenses Committee which shall designate the specific section in which such cart, wagon or vehicle shall stand.

Section 8-79.1. Prohibition Catering Trucks.

It shall be unlawful for any person to park any motor vehicle from which goods, wares, merchandise or food are sold, displayed, solicited or offered for sale in any City park at anytime or on any portion of any street within the City for more than fifteen minutes at the same location.

Section 8-79.2. Prohibition Push Carts.

It shall be unlawful for any person to use a nonmotorized vehicle or push cart type conveyance to sell goods, wares, merchandise or food on any public streets, sidewalks or park as defined in Section 8-1.50.



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V C Section 22455 Vending from Vehicles

Vending from Vehicles

22455. (a) The driver of any commercial vehicle engaged in vending upon a street may vend products on a street in a residence district only after bringing the vehicle to a complete stop and lawfully parking adjacent to the curb, consistent with the requirements of Chapter 9 (commencing with Section 22500) and local ordinances adopted pursuant thereto.

(b) Notwithstanding subdivision (a) of Section 114315 of the Health and Safety Code or any other provision of law, a local authority may, by ordinance or resolution, adopt additional requirements for the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon any street.

Amended Sec. 3, Ch. 139, Stats. 2008. Effective January 1, 2009.

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EXHIBIT C
PC MTG 10-26-11

CALIFORNIA HEALTH CODE - EXCERPT

114315. (a) A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business for more than a one-hour period.

(b) This section does not limit the authority of a local governing body to adopt, by ordinance or resolution, additional requirements for the public safety, including reasonable time, place, and manner restrictions pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.

EXHIBIT D
PC MTG 10-26-11

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Popular food trucks put in drive

The popular lunch options are ordered to keep moving every 15 minutes in Burbank.

Comments 5

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By Gretchen Meier gretchen.meier@latimes.com
February 18, 2011 | 3:48 p.m.

For some cooks in Burbank, fast food has meant the kitchen moves at least 1,000 feet every 15 minutes.

advertisement

Burbank law requires food trucks to move to a new location at least 1,000 feet every quarter hour. After three hours, they can return to previous parking spots, but only after having made potential customers seek them out at 12 stops.

Gourmet food trucks — which have gained prominence with their sushi burritos, Korean barbecue, french fries and burgers made with grilled cheese sandwiches as buns and stacked with bacon, cheddar, pickles and beer soaked onions — have inundated special events and the hearts and stomachs of Southlanders in recent years. But they've been put on a legal exercise schedule of sorts in Burbank.

"Some are a bit more restrictive, and that presents more of a challenge, but that's the cost of doing business," said Michele Grant, chief executive for the Grilled Cheese Truck, which makes frequent stops in Burbank and holds permits to operate in about a dozen cities across Los Angeles County.

After the Southern California Mobile Food Vendors Assn. complained in writing that Burbank's 15-minute rule was violating state law, the city stopped enforcement in October to draft a new set of rules that comply with the California Vehicle Code.

"Once the violation was brought to our attention, we stopped enforcing it," said Burbank Assistant Community Development Terre Hirsch. "Our time and distance restriction was not for public safety, and we do not want to violate criminal or civil code."

Ice cream trucks, for example, are not allowed to operate within a certain distance around schools out of concern for the traffic generated and the safety of the children. The vehicles, which feature such musical mainstays as "Pop Goes the Weasel," are also barred from parking unless they are hailed down or have a line of customers.

Licensing rules for food trucks that operate within the city limits remain in effect while officials re-evaluate the 15-minute rule, Hirsch said.

Burbank also requires trucks to be compliance with Los Angeles County health codes, a restriction that was echoed countywide when the Department of Public Health kicked off a grading program for mobile food facilities at the start of the year.

Trucks must make sure they are within a certain distance of an acceptable bathroom if they are parked for a certain length of time and clean up any trash left by patrons.

The large blue letter grades were welcomed by many operators, who said they would help remove the stigma associated with food trucks.

Chief Executive Officer for Southern California Mobile Food Vendors Matthew Geller agrees with



Contact: Mark Norberg (213) 237-7400 for placement. Local advertising by Paper2.

**EXHIBIT E
PC MTG 10-26-11**

Grant and the county.

"When that big blue "A" is staring you in the face, you know that this truck is a legitimate business," Geller said. "You know that these guys are doing what they're supposed to."

The quality of the 120 trucks that belong to the food truck association may be rising, but operators of brick-and-mortar restaurants see them as a threat.

Count Aram Yegyan, owner of the Basement Café at 401 N. Brand Boulevard in Glendale, is among them.

The Hollywood Production Center, which shares an alley behind the Basement Café, recently started working with the mobile food vendors association to bring trucks each day to generate activity in the area.

"We are already struggling in this economy. These lunch trucks will steal our business, and we're not going to make money to pay rent," Yegyan said. "We pay taxes to the city of Glendale, and they are stealing local revenue."

Yegyan added that he was given little notice about the trucks and was told they were brought in to generate lines and make the building appear more lively.

Hollywood Production Center referred calls about the new partnership to Geller, who likened the role of the trucks more to keeping people from jumping in their car to buy lunch as opposed to siphoning off local restaurants.

Glendale has also stopped enforcing time and distance restrictions as it drafts new regulations that comply with state regulations while making sure they're well managed within city limits.

At the same time, "we have a commitment to our bricks-and-mortar restaurants because they contribute to the ambiance of community," Glendale Neighborhood Services Administrator Sam Engel said.

But for the food truck industry, it's all par for the course.

"There are a lot of different restrictions and hoops to jump through," Grant said. "But we try to keep it super fun on the outside, and a lot of due diligence and careful planning on the inside."



Comments 5

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hsprfly at 9:47 AM February 26, 2011

This has NOTHING to do with business being stolen from a restaurant.

People are going to eat WHERE THEY WANT TO EAT. If something that is a novelty comes around every so often, and is different from that same downstairs lunch cafe with the same food day in and day out, of course people will go to it. Variety is the spice of life.

The fact that business owners say food vendors are *stealing* customers is ridiculous. No one is stealing anything. People are making their own choice in what they want to eat. People shouldn't have to settle for the downstairs office building cafe just because it's there in the building.

This sounds like high school whining and complaining because people are tired of the same thing every day from the office building cafes that are often highly over priced.

houstongal2 at 6:03 AM February 22, 2011

The City of El Paso, Texas is facing a Federal lawsuit from mobile truck vendors for enacting similar ordinance which are basically non-compete vs. public safety ...

Civil Action EP11CV0035; Castaneda vs. City of El Paso; In the U.S. District Court, Western District of Texas, El Paso Division - filed Jan. 26, 2011

Alice Peters at 11:42 PM February 21, 2011

Laws like this are promoted, demanded and supported by the same hypocrites who howl about "too much government."

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Pasadena restaurants and trucks in food fight

Brian Charles, Staff Writer

Posted: 10/04/2011 06:43:17 PM PDT



Robin Salzer, of Robin's B-B-Q and Wood Fire Grill, second from left, has a disagreement with a gourmet food truck owner, who didn't give his name, at a meeting at Cameron's Seafood Restaurant Tuesday regarding brick-and-mortar restaurants, versus mobile food preparation vehicles. (Walt Mancini Staff Photographer)

PASADENA - Restaurant owners in Pasadena fired the opening shot Tuesday in a battle with trendy gourmet food trucks, which brick-and-mortar businesses claim are luring away customers.

To the chagrin of many Pasadena restaurant owners, the city of Pasadena doesn't subject food trucks the pricey conditional-use permits restaurants must obtain to open for business.

"You can't have a double standard and that's the problem," said Robin Salzer, owner of Robin's B-B-Q and Woodfire Grill. "The city created a double standard because food trucks were the flavor of the month."

Restaurant owners don't simply want to force food truck operators to apply for conditional-use permits. Many want food trucks barred from parking on city streets, restricted to operating on private property (500 feet from the nearest

restaurant) and operating only after 10 p.m.

Some even suggested enacting a ban similar to San Marino's ordinance, which doesn't allow food trucks at all.

"The black and white of this is that catering trucks shouldn't be allowed in Pasadena," said Bessie Politis, Western Pacific regional quality assurance manager for Starbucks.

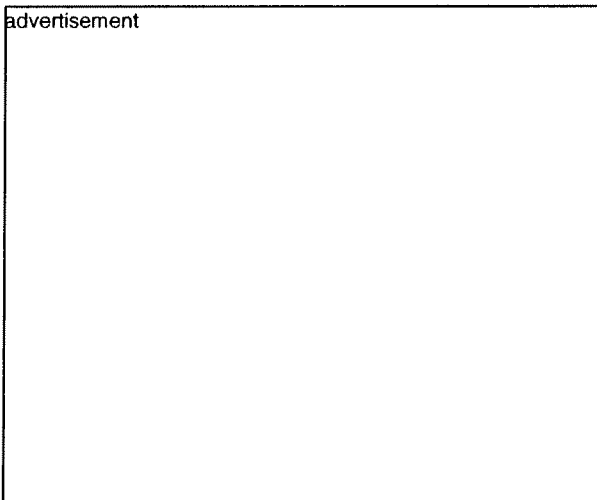
But restaurants should tread lightly when regulating food trucks, said Matt Geller, chief executive officer of the Southern California Mobile Food Vendors Association.

Geller's association sued the city of Monrovia this year for attempting to draft laws to ban food trucks at the behest of restaurant

owners.

"Where was the city of Pasadena when Blockbuster was going out of business?" Geller said. "This is not the deal of unfair competition, it is consumer choice."

He added that any Pasadena ordinance restricting food trucks must have a "public safety component ... or, it won't hold up."



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The easier solution is to sit down with the vendors and work out a deal amenable to all sides, Geller said.

"We are not bullies, we have done a lot of work with cities," Geller said.

Restaurants power much of Pasadena's economic engine, according to city officials.

Pasadena has the highest per capita concentration of restaurants in the nation, city officials claim.

With the recent redevelopment of Old Pasadena, high density residential building and mass transit, food trucks are just the next trend in the city's urbanization, according to William Kimura, Pasadena Department of Public Health, environmental health division manager.

The trucks' popularity has "exploded" in the last year, Kimura said, with trucks parking in Old Pasadena.

The city tried to intervene, but failed in an attempt to drive the trucks from business districts popular with young urban professionals.

"A year ago, I tried to get the food trucks out of Old Pasadena because there were so many complaints," Kimura said. "But city staff and the city attorney said it wasn't doable."

Such a change would require amending the original ordinance, which Kimura said was more likely with the support of restaurants.

And restaurant owners all but ignored food trucks until the coaches started converging on a small lot on North San Gabriel Avenue, where many of the city's young professionals pack the Friday Night Food Fair and Artisanal Marketplace.

Cameron's Seafood Restaurant owner Peter Gallanis laments the sight of 300 to 400 customers in lines that wrap around corners on

Friday nights at the Food Fair.

"It might not be taking a lot of my business, but I worry about my friends," Gallanis said.

In the ultra-competitive Pasadena restaurant scene, the food trucks represent a threat to the viability of many established businesses, Salzer said.

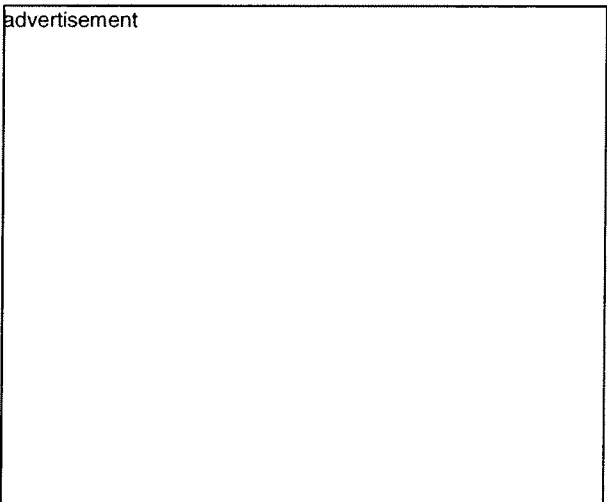
"The pie wedges are getting smaller and smaller," he said.

But as Geller said, fighting food trucks is like fighting progress. With restaurant start-up costs set at more than \$500,000, many of those who venture into the food business don't dare to take the same risks as those operating food trucks.

"People in restaurants don't come up with crazy options on food trucks because they don't have the overhead," Geller said.

And an ordinance like the one suggested by Pasadena restaurant owners won't dissuade some of the popular trucks from cruising to Pasadena.

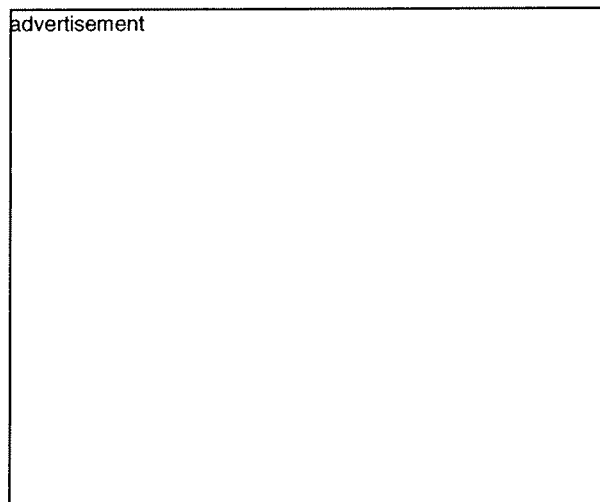
"If these laws were passed, it would not deter us from going to Pasadena. We would just work with surrounding businesses because we don't go



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to places we are not invited to," said Libby Dearing, sales and marketing associate for the Border Grill Food Truck.

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626-578-6300, ext. 4494



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KEVIN BEHRENDT
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November 22, 2010

VIA U.S. MAIL

Robert Wadden, Esq.
Office of City Attorney
1400 Highland Avenue
Manhattan Beach, CA 90266

Re: *Mobile Food Vending in City of Manhattan Beach and Manhattan Beach Municipal Code Section 14.36.130*

Mr. Wadden:

We write to follow up on our conversation of Friday, October 15, 2010. As we informed you when we spoke, we represent the So. Cal. Mobile Food Vendors Association. The Association has more than 100 members who own and/or operate mobile food facilities throughout Los Angeles and Orange Counties. These members would like to operate their businesses within the City of Manhattan Beach. However, many of the members have faced difficulties in getting licensed and permitted. In a number of instances their request for a business license *application* has been denied. Those few members that have been successful in receiving a license have encountered problems while operating on the public streets of Manhattan Beach.

These problems are related to the enforcement of Manhattan Beach Municipal Code Section 14.36.130, which limits the vendors from operating in any one place for ten minutes, and only at the request of a bona fide purchaser. As we discussed when we spoke last month, this provision of the municipal code is invalid pursuant to state law, specifically, California Vehicle Code Section 22455 (b). Section 22455(b) allows local authorities to regulate the time, place, and manner of vending from vehicles, but only out of concern for public safety. Time limit restrictions, such as 14.36.130 do not pass this public safety hurdle. *See Barajas v. City of Anaheim*, 15 Cal.App.4th 1808 (1993). Restrictions similar to 14.36.130 have been deemed invalid in Santa Ana (*Vasquez v. City of Santa Ana*, 2006), Los Angeles County (*People v. Garcia*, 2008), and Los Angeles City (*Gonzales v. Los Angeles*, 2009). Further, the City of Santa Monica has just recently rescinded their condition requiring trucks to move every 30 minutes after investigating the issue in conjunction with an inquiry from the Association.

EXHIBIT F
PC MTG 10-26-11

As we mentioned when we spoke, the Association wants to work with Manhattan Beach to make our presence in your city one that is beneficial to all parties. We would prefer to resolve this matter in an informal setting. However, we have waited more than a month for a response to our request to meet with your office and/or the relevant departments within the city to discuss our concerns. Please contact us so that we may attempt to avoid the need for formal proceedings.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Behrendt', with a stylized flourish at the end.

Kevin Behrendt

10.08.080 - Temporary use classifications.

- A.** **Animal Shows.** Exhibitions of domestic or large animals for a maximum of 7 days.
- B.** **Christmas Tree/Pumpkin Sales.** Outdoor retail sales of Christmas trees between Thanksgiving and December 26, and, pumpkins between September 30 and November 1.
- C.** **Circuses and Carnivals.** Provision of games, eating and drinking facilities, live entertainment, animal exhibitions, or similar activities in a tent or other temporary structure for a maximum of seven days. This classification excludes events conducted in a permanent entertainment facility.
- D.** **Commercial Filming, Limited.** Commercial motion picture or video photography at the same location 6 or fewer days per quarter of a calendar year.
- E.** **Real Estate Sales.** An office for the marketing, sales, or rental of residential, commercial, or industrial development.
- F.** **Retail Sales, Outdoor.** Retail sales of new merchandise on the site of, and operated by, a legally established retail business for a period not to exceed 48 hours no more than once every 3 months.
- G.** **Street Fairs.** Provision of games, eating and drinking facilities, live entertainment, or similar activities not requiring the use of roofed structures.
- H.** **Trade Fairs.** Display and sale of goods or equipment related to a specific trade or industry for a maximum period of 5 days.
- I.** **New Year's Eve.** Extension of hours of operation for all restaurants, bars, hotels, facilities within hotels, and similar commercial businesses to remain open until 1:00 a.m. on New Year's Day.

10.16.020 - CL, CC, CG, CD, CNE districts: land use regulations.

	CL	CC	CG	CD	CNE	Additional Regulations
Temporary Uses						(G)
Animal Shows	-	-	U	-	-	
Christmas Tree Sales/Pumpkin Sales	P	P	P	P	P	
Circus and Carnivals	-	U	-	U	U	
Commercial Filming, Limited	-	U	U	U	U	
New Year's Eve	U	U	U	U	U	
Real Estate Sales	P	P	P	P	P	
Retail Sales, Outdoor	P	P	P	P	P	
Street Fairs	U	U	U	U	U	
Trade Fairs	-	U	U	-	-	

10.84.110 - Temporary use permits.

A temporary use permit authorizing certain temporary use classifications, as defined in Chapter 10.08 of this title and as listed in the land-use regulations for the base districts in which the use will be located, shall be subject to the following provisions:

A.

Application and Fee. A completed application form and the required fee shall be submitted to the Community Development Director. The Community Development Director may request any other plans and materials necessary to assess the potential impacts of the proposed temporary use.

B.

Duties of the Community Development Director. The Community Development Director shall approve, approve with conditions, or deny a complete application within a reasonable time. No notice or public hearing shall be required.

C.

Required Findings. The application shall be approved as submitted, or in modified form, if the Community Development Director finds:

1.

That the proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan and the provisions of this title; and

2.

That approval of the application will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare.

D.

Conditions of Approval. In approving a temporary use permit, the Community Development Director may impose reasonable conditions necessary to:

1. Achieve the general purposes of this title and the specific purposes of the zoning district in which the temporary use will be located, or to be consistent with the General Plan;
2. Protect the public health, safety, and general welfare; or
3. Ensure operation and maintenance of the temporary use in a manner compatible with existing uses on adjoining properties and in the surrounding area.

E.

Effective Date—Duration—Appeals. An approved temporary use permit shall be effective on the date specified in its approval; a disapproved permit may be appealed by the applicant, as provided in Chapter 10.100 of this title. The permit shall be valid for a specified time period not to exceed thirty (30) days. A temporary use permit shall lapse if not used within the dates approved and may be revoked by the Community Development Director effective immediately upon verbal or written notice for violation of the terms of the permit. Verbal notice shall be confirmed by written notice mailed to the permit holder within a reasonable time. The Community Development Director may approve changes in a temporary use permit.

Exceptions:

1. A Christmas tree/pumpkin sales temporary use permit may exceed thirty (30) days but shall be valid only during the time period in which the activity is taking place.
2. New Year's Eve hours of operation extensions shall only be valid until 1:00 a.m. for the one (1) time/day requested. The applicant may apply annually for a temporary use permit to request extended New Year's hours.