

DRAFT FOOD TRUCK REGULATIONS

Proposed code language is shown below in strikeout-underline format:

- *Food trucks are a health regulated business per Chapter 4 of the San Diego Municipal Code (SDMC). Each food truck operator must obtain a County Health permit , pay annual permit fees (County Code Sections 61.104 and 61.106), pass annual inspections (County Code Section 61.112), and display a certification sticker. The County also requires all food trucks to post a letter grade (County Code Section 61.107).*

§41.02 Health Regulated Businesses — Health Permits

The occupations, businesses and activities which are the subject of Article 2 of this Chapter are designated as “Health Regulated Businesses.”

§41.03 Health Permits and Grade Cards Required

No person shall conduct, manage or operate a Health Regulated Business without a current health permit issued by the San Diego County Department of Environmental Health. A separate health permit shall be required for each establishment. Health permits shall not be transferable from one person to another or from one location to another.

§41.0704 Health Permit Fee for Retail Food Facilities

Health Permits required by Chapter 4, Article 2, Division 1, (Retail Food Facilities) shall be subject to permit fees and penalties as provided in County regulations adopted by reference in that Division.

§42.0102 County Code of Regulations Adopted

The provisions of the San Diego County Code of Regulatory Ordinances concerning permanent and mobile food facilities, at Title 6, Division 1, of the County Code, are incorporated into this Code by this reference.

- *Vending from vehicles is subject to SDMC Chapter 5 limitations in the interest of public health and safety. Section 54.0122 defers to the City’s zoning and land use regulations for regulation of mobile vending on private property:*

§54.0122 Prohibitions and Regulations Applicable to the Sale or Distribution of Foods, Beverages, Merchandise or Services from Vehicles and Mobile Food Units

- (a) Purpose and Intent. The City Council hereby finds and declares that the unrestricted sale or distribution or the offering for sale or distribution of food, beverages, merchandise or services from vehicles or mobile food units within or upon public streets, sidewalks and rights of way, public property or in the vicinity of school buildings, under certain

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circumstances, constitutes a danger to public safety because of the likelihood of injury to pedestrians thereby exposed to hazards from other vehicular traffic in the vicinity.

The City Council further finds that it is in the interest of the health, safety and welfare of the community that sales of products from mobile food units be limited to food items subject to regulation under the California Retail Food Code. The City Council further finds that the unauthorized use of public property for private commercial activity constitutes a misuse of public property and tax money and that similar activity on private property when not in conformity with health, safety, zoning and land use regulation is contrary to the public welfare.

(b) Definitions.

- (1) The terms “vehicle,” “street” and “highway” are defined by the Vehicle Code of California.
- (2) “Public property” shall mean any real property owned or controlled by or leased or assigned to a governmental entity excluding such property as had been leased out by that entity for nongovernmental purposes. It shall also include unimproved streets and rights of way or similar easements for public access and use over which the public entity has a legal interest or right of control, other than a publicly maintained street or highway.
- (3) ~~The term “mobile food unit” is any non-self-propelled or nonmotorized vehicle or similar vending device defined in Section 42.0160 of this Code.~~
- (4) ~~“Public school” shall refer to any public elementary school, middle school, junior high school or high school as defined in the Education Code of California.~~

(c) Prohibitions. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a vehicle on a street or highway, unless the vehicle is first lawfully parked or stopped and then remains for no longer a period of time than is necessary to complete the immediate sale. An operator is considered to be engaged in an “immediate sale” when there are patrons waiting in line for service. Operators of such vehicles shall maintain a minimum clear space of (10) feet both in front of and behind the vehicle to allow for pedestrian safety and safe sight distance for approaching motorists. No sales or distribution shall be made when the designated minimum clear space of ten (10) feet does not exist and the mobile vending activity is in compliance with the City’s zoning provisions and applicable environmental health permit requirements.

(d) ~~No food or beverage shall be sold or distributed or offered for sale or distribution from a mobile food unit on a street or highway, on public property or upon a sidewalk without a permit from the City Manager or designee authorizing such sale or distribution pursuant to Section 42.0166 of this Code.~~

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- ~~(e)~~(d) No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution, whether from a vehicle or otherwise, upon public property without the authorization of the public entity.
 - ~~(f)~~(e) No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a vehicle or mobile food unit on private property without the express consent of the owner or lessee of the property and except in conformity with health, safety, zoning and land use regulations or permits pertaining to the site from which the sale or distribution is conducted.
 - ~~(g)~~(f) No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a vehicle within five hundred (500) feet from any public school building, measured in a straight line to the nearest point of the school building, between 7:00 a.m. and 4:00 p.m. on regular school days, except in a designated commercial loading zone in conformity with applicable restrictions thereto or except on private property with the express consent of the owner or lessee of the property and in conformity with health, safety, zoning and land use regulations and permits pertaining to the site from which the sale or distribution is conducted.
 - ~~(h)~~(g) Mobile food **truck** unit operations are limited to the sale of food **and beverage** items regulated under the California Retail Food Code, **San Diego Municipal Code Chapter 4, Article 2, Division 1, and Land Development Code Section 141.0612**. The sale or distribution of any other items is prohibited.
 - ~~(i)~~(h) In addition to enforcing applicable federal, state and local laws, the City intends to strictly enforce any violations of the California Penal Code regarding the sale, distribution, or display of BB devices and Imitation Firearms. Violations of mobile food unit sections may be pursued as both a regulatory and a criminal violation.
 - ~~(j)~~(i) Construction with other laws. Nothing in this section shall be deemed to excuse compliance with any law or regulation pertaining to health, zoning, public safety or land use under applicable state law or the municipal code, including the issuance of any permits thereunder.
- *The City is proposing to create a new zoning land use category for mobile food trucks to specify the parameters and context where mobile food trucks are compatible and where they are incompatible. (Currently, only the Centre City Planned District specifically provides a permit process for mobile food facilities to operate on private property—via Conditional Use Permit.) The proposal would allow the use by right in the public right-of-way and on private property subject to performance standards (and subject to a ministerial permit on private property with some exceptions):*

Allowable zones/locations: As proposed, Mobile Food Trucks would be allowed as a limited use in the citywide Community Commercial, Neighborhood Commercial, Regional Commercial, Office Commercial, Visitor Commercial and all Industrial zones; conditionally permitted in the Centre City Planned District; and would be “not permitted” in the citywide open space, agricultural, residential, and commercial-parking zones, the Gaslamp Planned District, or within

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the public right-of-way in the Parking Impact Overlay Zone (beach impact area and campus impact area).

New Separately Regulated Use Regulations for Mobile Food Trucks:

§141.0612 Mobile Food Trucks

Mobile food trucks are motorized vehicles from which food or drink (prepared on-site or pre-packaged) is sold or served to the general public, whether consumed on-site or elsewhere. They are retail food facilities and health regulated businesses subject to San Diego Municipal Code Chapter 4, Article 2, Division 1.

Mobile food trucks are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. This section does not apply to pushcarts regulated by Section 141.0619 which applies to moveable, wheeled, non-motorized vehicles used by vendors for the sale of food or beverage products that require minimal or no preparation (i.e. ice cream, hot dogs, coffee or cocoa based beverages).

(a) General Regulations

- (1) Mobile food truck operators shall maintain a valid business tax certificate to operate within the City of San Diego. Prior to commencement of mobile food truck operations and prior to City issuance of a business tax certificate, a zoning use certificate is required in accordance with Section 123.0302.
- (2) Mobile food trucks shall be operated in conformance with Municipal Code Sections 41.02, 41.03, 41.0701 through 41.0704, 42.0101 and 42.0102, 54.0122, County Code Title 6, Division 1, and the requirements of Land Development Code Section 141.0612.
- (3) Mobile food truck operations shall be limited to the sale of food items regulated under the California Retail Food Code. The sale or distribution of any other items is prohibited.
- (4) Mobile food truck operators shall not verbally solicit business from pedestrians or persons in vehicles and shall not sell to persons in vehicles.
- (5) Mobile food truck operators shall not operate within a business improvement district without notarized authorization from the business improvement district and proof of payment and participation in annual business improvement district assessments.
- (6) Mobile food trucks shall not operate within 500 hundred feet from any public educational facility (K-12 school), measured in a straight line to the nearest point of the school building, between 7:00 a.m. and 4:00 p.m. on regular school days, except for mobile food trucks operating for school purposes on public school property and mobile food trucks operating on private property in accordance with Section 141.0612.

Comment [a3j1]: This requirement is being reviewed by the City Attorney and may be removed from the draft.

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- (7) No amplified music or loudspeakers shall be permitted. The operation shall at all times comply with the provisions of the City's Noise Ordinance.
 - (8) No temporary lighting shall be provided on the site where the mobile food truck is operating, except that localized lighting may be used on or in the mobile food trucks for the purpose of inside food preparation and menu illumination.
 - (9) No signage other than that exhibited on the mobile food truck may be displayed at the site where the mobile food truck is operating. The prohibition shall include any hand-held signage and handbills.
 - (10) No sales or service of alcohol shall be allowed by mobile food trucks.
 - (11) All associated equipment and operations shall be self contained within the mobile food truck. No furniture, umbrellas, generators, extension cords, objects or *structures* shall be placed outside of the vehicle, or attached to any traffic signals or *signs*, light standards, parking meters, phone booths, newspaper stands, bus stops, trash receptacles, benches, trees, or similar objects.
 - (12) The mobile food truck operator shall provide one trash receptacle and one recycling receptacle conveniently located for use by patrons and in a location that does not impede pedestrian or vehicular traffic. All litter or debris generated within a minimum of a 25-foot radius of the food truck shall be collected and removed by the mobile food truck operator.
 - (13) Mobile food trucks shall not operate between the hours of 10:00 pm and 6:00 a.m. Sunday through Thursday, or between 11:00 p.m. and 6:00 a.m. Friday and Saturday, in any location within 1,000 feet of residential.
 - (14) Mobile food truck operators must have access to a restroom with a toilet and hand washing facilities in accordance with the California Retail Code. Prior to the commencement of operations, the mobile food truck operator shall secure a written agreement giving the operator and his/her employees the right to use permanent sanitation facilities located not more than 200 feet from the location where the mobile food truck will be operated. The operator must maintain a notarized copy of the written permission within the vehicle and provide evidence upon request by authorized City official.
 - (15) No overnight parking of mobile food trucks shall be allowed.
- (b) Mobile food trucks in the *Public Right-of-Way*
- Mobile food trucks may be permitted to operate in the *public right-of-way* as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

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- (1) Mobile food truck operators shall maintain a liability insurance policy of at least \$1,000,000 that names the City as an additional insured. The liability insurance shall be provided in a form acceptable to the City Engineer.
- (2) The mobile food truck shall be legally parked in full compliance with all parking and California Vehicle Code provisions which apply to the location at which it is parked, including any red curb marking prohibiting the parking or standing of a vehicle and any sign or curb marking indicating a parking time limit. Mobile food trucks shall not interfere with the passage of vehicles along the street, obstruct access to parked vehicles, impede the delivery of materials to adjoining property, nor preclude any existing curb space use.
- (3) Mobile food truck operators shall not operate within 75 feet of the entrance to a street level eating and drinking establishment without notarized authorization from the owners or proprietors of the affected eating and drinking establishments.
- (4) Mobile food trucks shall not be parked less than 25 feet from a street intersection with a crosswalk, traffic light, or stop sign, and not less than 25 feet from a bus stop or trolley stop.
- (5) Mobile food trucks shall be parked directly adjacent to a paved sidewalk (not parkway) that contains a minimum width of 8 feet, free and clear for pedestrian passage, as measured perpendicular to the face of the curb.
- (6) A clear path, free of all obstructions to the flow of pedestrian traffic, shall be provided in the public right-of-way. The mobile food truck operator shall be responsible for organizing customer queuing in a manner that maintains a path along the sidewalk that is at least 4 feet clear and does not interfere with or obstruct the free passage of pedestrians.
- (7) Food and beverage service shall be limited solely to that side of the mobile food truck facing the adjacent sidewalk.
- (8) The mobile food truck operator shall not encroach onto a public sidewalk with any part of the vehicle or any other equipment or furniture related to the operation of its business, except for required refuse and recycling receptacles.
- (9) Mobile food trucks shall not idle vehicle engines more than 5 minutes during any one hour time period.
- (10) Mobile food truck operators shall be responsible for controlling smoke and odors caused by food preparation so as to avoid a public nuisance.
- (11) Mobile food trucks are not permitted in the public right-of-way within the Parking Impact Overlay Zone as described in Section 132.0802.

Comment [a3j2]: This requirement is being reviewed by the City Attorney and may be removed from the draft.

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(12) Mobile food trucks greater than 26 feet in length, or that occupy more than two on-street parking spaces, are not permitted to operate in the public right-of-way in commercial zones.

(13) Mobile food trucks shall not operate in the public right-of-way within 500 feet of an event that has an approved Special Events Permit without notarized authorization from the owner or proprietor of the special event or without an approved Special Events Permit in accordance with Municipal Code Section 22.4004.

(c) Mobile food trucks on private property

Mobile food trucks may be permitted to operate on private property as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) Mobile food truck operations on private property shall require an approved Mobile Food Truck Permit in accordance with Section 123.0602, except where exempted per Section 141.0612(c)(1)(C), (d), and (e).

(A) The Mobile Food Truck Permit shall apply to the location designated on the permit.

(B) Prior to commencing operations, a copy of the approved Mobile Food Truck Permit shall be displayed in a prominent and visible place within each mobile food truck together with a notarized letter of permission from the property owner granting the operator the owner's express consent to operate on the site in accordance with the approved permit.

(C) A Mobile Food Truck Permit shall not be required for a mobile food truck to operate in accordance with Section 141.0612 (d) or (e), or on the property of a school, university, or hospital with the express written consent of the property owner prior to commencement of operations.

(2) Mobile food truck operations shall be permitted on private property only as an accessory use.

(3) Mobile food truck operations shall not be permitted within commercial pay-to-park parking areas.

(4) A maximum of one mobile food truck shall be allowed for each 1,500 square feet of paved, level parking area on a site. The 1,500 square foot area shall not include any off-street parking spaces that are not reserved, encumbered, or designated to satisfy the off-street parking requirement of a business or activity that is operating at the same time as the mobile food truck.

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- (5) Mobile food trucks may be parked within required parking areas. However, operation of the mobile food truck shall not create a parking impact or impede pedestrian or vehicle ingress or egress through the remainder of the parking area or adjacent *public right-of-way*. There shall be no reduction in the number of parking spaces required for on-site uses while those uses are in operation.
- (6) Mobile food trucks are not permitted within required *yards* or landscape areas.
- (7) A *premises* located in a commercial zone shall not host mobile food trucks for more than 3 days per week (consecutive or aggregate), including private catering activity identified in Section 141.0612.

(d) Private Catering

Mobile food trucks may operate as a private food and beverage caterer in accordance with Section 141.0612(a) and the following:

- (1) The mobile food truck shall be parked entirely on private property.
- (2) Service shall be limited to private guests of the catering event host only. No walk-up customers are permitted.
- (3) Payment shall occur directly between the catering event host and the mobile food truck operator. No payment transactions shall occur for individual orders.
- (4) Catering service provided by the mobile food truck shall be customarily incidental to, related to, and clearly subordinate to a conforming *primary use* operating on the *premises*.
- (5) A maximum of one catering event per week is permitted in commercial zones, and a maximum of one catering event per month is permitted in residential zones. More frequent catering activities shall be subject to a Mobile Food Truck Permit and the limited use regulations in Section 141.0612 (c).

(e) Mobile Food Trucks at Active Construction Sites

Mobile food trucks that serve a site that is actively under construction pursuant to a valid building permit or grading permit, and do not vend to the general public during their stop, shall be exempt from the requirement to obtain a Mobile Food Truck Permit.

(f) Special Events

Approval must be obtained from the City Manager in accordance with Municipal Code Section 22.4004 to conduct a special event with food trucks on public property anticipated to result in the public assembly of 75 or more people.

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Chapter 15: Planned Districts, Article 7: Gaslamp Planned District

§157.0304 Permitted Uses

[Intro paragraph through (c) No change]

(d) Prohibited Uses

The following uses shall be prohibited in the entire District as both *primary* and *accessory uses*:

- (1) card rooms, defined as any establishment open to the public wherein games of any kind are played with cards for any consideration;
- (2) correctional placement facilities pursuant to Section 141.0406;
- (3) drive-through businesses; ~~and~~
- (4) mobile food trucks; and
- (5) pushcarts in the public right-of-way.

- As proposed, a ministerial permit would be required to host food trucks on private property with some limited exceptions for private catering, active construction sites, and schools, universities, and hospitals where the property owner has granted written permission. The permit would not be tied to a specific food truck operator. The permit would specify the mobile food truck operation location on the property and the maximum number of food trucks permitted on the property in accordance with the land use regulations in proposed Section 141.0612:

New: Division 6: Mobile Food Truck Permit Procedures

§123.0601 Purpose of Mobile Food Truck Permit Procedures

The purpose of these procedures is to establish the process for annual review and approval of mobile food trucks on private property in accordance with the separately regulated use regulations in Land Development Code Section 141.0612 in order to avoid impacts to pedestrian and vehicular circulation and minimize impacts to surrounding properties.

§123.0602 When a Mobile Food Truck Permit Is Required

- (a) A Mobile Food Truck Permit is required for mobile food truck operations on private property, except where specifically exempted by Section 141.0612.
- (b) The Mobile Food Truck Permit will be issued for the property as a whole and shall require compliance with Section 141.0612 by the property owner and any individual

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mobile food truck operators authorized by the property owner to operate on the premises in accordance with the Mobile Food Truck Permit.

- (c) A change in location on the premises or expansion of the mobile food truck use on the premises shall require approval of a new Mobile Food Truck Permit application.

§123.0603 How to Apply for a Mobile Food Truck Permit

An applicant shall apply for a Mobile Food Truck Permit in accordance with Section 112.0102. The application shall include a site plan and a description of how the proposed mobile food truck operations comply with Section 141.0612.

§123.0604 Decision on a Mobile Food Truck Permit

A decision on an application for a Mobile Food Truck Permit shall be made in accordance with Process One. The City Manager shall approve a Mobile Food Truck Permit if it meets the following conditions:

- (a) The proposed mobile food truck operations will not be detrimental to the public health, safety and welfare; and
- (b) The proposed mobile food truck operations comply with Section 141.0612.

§123.0605 Issuance and Effective Date of a Mobile Food Truck Permit

- (a) The City Manager shall issue a Mobile Food Truck Permit when the required fees have been paid and the permit has been approved. The effective date shall be specified on the permit and shall not be later than 30 calendar days after the date of issuance.
- (b) A permit shall not be issued for a location where an enforcement action is in process for unlawful activity on the premises until the enforcement action has been concluded.

§123.0606 Expiration of a Mobile Food Truck Permit

The City Manager shall set a one year expiration date for each Mobile Food Truck Permit beginning from the effective date of the permit.