



**County Counsel
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: January 12, 2010 - REVISED

Public Hearing Required	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>						
CONTACT PERSON: Barbara Booth Grunwald PHONE: 636-4950						

SUBJECT: Ordinance Regarding Business License Requirements for Mobile Food Vendors

REQUEST(S):

That the Board of Supervisors:

1. On January 12, 2010, introduce and waive the first reading of an ordinance adding Chapter 20 of Part VI of the Ordinance Code of Tulare County, pertaining to business license requirements for mobile food vendors, and direct the Clerk to publish a summary of the ordinance before the second reading as required by law.
2. On January 26, 2010, waive the second reading and adopt the proposed ordinance, and direct the Clerk to publish and post a summary of the ordinance after adoption as required by law.

SUMMARY:

This ordinance would, for the first time, require mobile food vendors in the unincorporated area to obtain business licenses. It would also, for the first time, enact specific regulations regarding the operation of mobile food facilities in the unincorporated area.

SUBJECT: Ordinance Regarding Business License Requirements for Mobile Food
DATE: Vendors
January 12, 2010

The principal regulations would be as follows:

- In residential areas, the hours of operation would be restricted (no vending from 9:00 p.m. to 7:00 a.m. the next morning), and vendors would be allowed to stop for no more than 10 minutes at a time.
- In nonresidential areas, vendors could operate at any hour, and could park for longer than one hour only if they could show that their employees would have access as provided in the Health and Safety Code to appropriate restroom facilities.
- Vendors could park in the public right of way along a highway only if certain safety requirements were met.
- Vendors parking off the highway would need to have written permission from the property owner.
- Trash would need to be removed whenever the vendor left a location.
- Business equipment would need to be removed whenever the vendor left a location, unless the vendor had written permission from the property owner to leave the equipment.

For ease of administration, the effective date of the ordinance would be set as March 1, 2010.

FISCAL IMPACT/FINANCING:

None. The additional work for the Tax Collector in administering the business licensing requirement should be recouped through the business license fees.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

A workable ordinance regulating mobile food vendors should enhance Safety and Security, Economic Well-Being, and Quality of Life.

ALTERNATIVES:

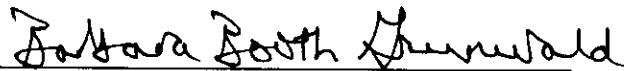
None.

SUBJECT: Ordinance Regarding Business License Requirements for Mobile Food
DATE: Vendors
January 12, 2010

INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

The County Administrative Office, the Resource Management Agency, the Health and Human Services Agency, and the Sheriff have all contributed to the agenda item. In addition, staff has met several times with the mobile food vendors.

ADMINISTRATIVE SIGN-OFF:



Barbara Booth Grunwald
Deputy County Counsel

Cc: Auditor/Controller
County Counsel
County Administrative Office (3)

Attachment(s)

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF) RESOLUTION NO. _____
Ordinance Regarding Business)
License Requirements for)
Mobile Food Vendors)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

Introduced and waived the first reading of an ordinance adding Chapter 20 of Part VI of the Ordinance Code of Tulare County, pertaining to business license requirements for mobile food vendors, and directed the Clerk to publish a summary of the ordinance before the second reading as required by law.

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF)
Ordinance regarding Business) RESOLUTION NO. _____
License Requirements for)
Mobile Food Vendors)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

Waived the second reading and adopted the proposed ordinance, and directed the Clerk to publish and post a summary of the ordinance after adoption as required by law.

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124, THE FOLLOWING IS A SUMMARY OF AN ORDINANCE ADDING CHAPTER 20 OF PART VI OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO BUSINESS LICENSES FOR MOBILE FOOD VENDORS.

SUMMARY OF PROPOSED ORDINANCE

The ordinance will require mobile food vendors in the unincorporated area to obtain business licenses. The ordinance will also regulate the operations of mobile food vendors. The principal regulations will: restrict hours of operation in residential areas and how long vendors could stop in residential areas; set safety requirements for parking in the public right of way along a highway; set health and safety requirements for employees if the mobile food facility stopped off the public highway for longer than one hour; require vendors parking off the highway to have written permission from the property owner; and set requirements for removal of trash and business equipment when leaving a location.

The effective date of the ordinance will be March 1, 2010.

[for first publication, add following paragraph:]

The ordinance herein summarized will be considered for second reading by the Tulare County Board of Supervisors on January 26, 2010, at a regular meeting of said Board. At least five (5) days prior to that date, a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors and shall be available for public inspection at that location.

[for second publication, add following paragraph instead:]

The ordinance herein summarized was adopted by the Tulare County Board of Supervisors on January 26, 2010, at a regular meeting of said Board, by the following vote: _____ . A certified copy of the full text of the adopted ordinance, along with the names of those supervisors voting for and against the ordinance, is posted in the office of the Clerk of the Board of Supervisors.

COUNTY OF TULARE

By _____
Chairman, Board of Supervisors

ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 20 OF PART VI
OF THE ORDINANCE CODE OF TULARE COUNTY,
PERTAINING TO BUSINESS LICENSE
REQUIREMENTS FOR MOBILE FOOD VENDORS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS
AS FOLLOWS:

Section 1. Part VI of the Ordinance Code of Tulare County is amended by adding Chapter 20, to read as follows:

CHAPTER 20. MOBILE FOOD VENDORS

ARTICLE 1. GENERAL PROVISIONS

SECTION 6-25-1000. APPLICATION OF GENERAL PROVISIONS:

Unless the provisions of this Chapter provide otherwise, all of the provisions of Chapter 1 of this Part are applicable to the licenses referred to in this Chapter.

SECTION 6-25-1010. DEFINITIONS:

The following words and phrases, as used in this Chapter, shall have the following meanings:

(a) "Mobile food facility" shall have the same meaning as in Health and Safety Code section 113831.

(b) "Mobile food vendor" means a person operating a mobile food facility business.

(c) "Vehicle" includes, but is not limited to, any vehicle moved by human, animal, mechanical, or motor power.

SECTION 6-25-1020. LICENSE REQUIRED:

Any person engaging in, or vehicle used in, the business of a mobile food vendor shall have a valid license to engage in or be used in such business.

SECTION 6-25-1030. EXCEPTIONS TO LICENSE REQUIREMENT:

This Chapter shall not apply to any person operating a mobile food facility at a community event as provided in Health and Safety Code section 114295.

SECTION 6-25-1040. FORM OF LICENSE:

A license shall contain the information required by Chapter 1 of this Part, and in addition shall contain the following information:

- (a) A description, including license and registration numbers for motor vehicles, of each vehicle authorized by the license to be used in the mobile food vendor business.
- (b) The name, description, and current address of the licensee.
- (c) A statement that the license applies only to the person whose name appears on the face of the license.

SECTION 6-25-1050. DISPLAY OF LICENSE:

The provisions of section 6-01-1120 of Chapter 1 of this Part shall not apply to a license issued pursuant to this Article.

Mobile food vendors shall display their licenses upon request to any County official or to any person with whom they transact business.

SECTION 6-25-1060. DISPLAY OF NAME OF LICENSEE:

It shall be unlawful for any licensee to use, or allow to be used, any vehicle in the mobile food vending business, unless such vehicle shall bear, on both sides thereof, in contrasting letters, identifying information of the type described in Section 114299 of the California Health and Safety Code, in the respective sizes required by that statute.

ARTICLE 2. APPLICATION; FEES

SECTION 6-25-2000. APPLICATION: FORM:

In addition to the information required under Chapter 1 of this Part, an application for a license under this Chapter shall contain the following information:

- (a) A description of all vehicles that will be used in the mobile food vending business. Said description shall include the license and registration numbers of any motor vehicle, advertising or business markings on the exterior of each vehicle, and the capacity and nature of storage facilities within each vehicle.
- (b) A description of the geographic area where the business will take place. If the applicant plans to conduct business at any one location in the unincorporated area of the

County for more than a one-hour period each day, as authorized elsewhere in this ordinance, the applicant shall include the written permission of the property owner and a site plan that addresses the criteria specified in Article 3 of this Chapter.

SECTION 6-25-2010. INVESTIGATION OF APPLICANT:

(a) An application under this Chapter shall include such information as may be required by the License Collector in order to determine that the proposed business will comply with the criteria in this Chapter and applicable laws. This information shall include, but not be limited to, a copy of the Health Officer's certification that the proposed business will comply with the applicable food, health, safety and sanitation laws, ordinances, and regulations. If the mobile food vendor plans to stop on the public highway, the vendor shall include an indemnification agreement pursuant to section 6-25-3010. If the mobile food vendor plans to stop for longer than one hour off the public highway, the vendor shall include the permission of the property owner.

(b) By filing an application, the applicant and all persons referred to in subdivision (b) of section 6-01-2000 shall be deemed to have waived any and all objections to, and to have thereby authorized, any and all investigations concerning their business history, past employment, and property ownership.

(c) The provisions of section 6-01-2020 of Chapter 1 of this Part relating to fingerprinting and photographing shall not apply to applicants for licenses issued under this Article.

SECTION 6-25-2020. LICENSE FEES:

The annual license fee shall be established by resolution of the Board of Supervisors. The license collector shall issue a separate license in the name of the licensee for each vehicle. An additional license fee shall be due for each vehicle, as established by resolution of the Board of Supervisors. Licenses must be renewed annually, and shall be subject to the fee in effect at the time of the renewal application.

SECTION 6-25-2030. LICENSE FEES: EXCEPTIONS:

Every honorably discharged veteran who qualifies pursuant to the provisions of Business and Professions Code section 16102 shall be exempt from payment of the license fee required by this Article. All claims for such exemption shall be referred by the license collector to the Tulare County Veterans Service Office for investigation and recommendation.

ARTICLE 3. RESTRICTIONS ON OPERATIONS

SECTION 6-25-3000. HOURS OF BUSINESS:

(a) Residential Areas.

In areas zoned for residential use:

(1) It shall be unlawful for any mobile food vendor to operate between the hours of 9:00 p.m. of any day and 7:00 a.m. of the following day.

(2) A mobile food vendor must move at least every 10 minutes.

(b) Nonresidential Areas.

In areas not zoned for residential use:

(1) A mobile food vendor may operate at any hour.

(2) Pursuant to Health and Safety Code section 114315, a mobile food vendor may not stop to conduct business for more than a one-hour period unless restroom facilities are available to the employees of the mobile food vendor. "Available restroom facilities" means that the employees need not walk more than 200 feet travel distance to an approved and readily available toilet and handwashing facility, or as otherwise approved by the Health Officer. The Health Officer may require proof in the form of written permission from the owner of the restroom facility.

SECTION 6-25-3010. LOCATION OF OPERATIONS

(a) On-Street Operation.

Pursuant to Vehicle Code section 22455, a mobile food vendor may stop to conduct business at a location within the right of way of a highway in the unincorporated area of the County if all of the following conditions are met:

(1) The mobile food facility shall not constitute an encroachment on the highway.

(2) The mobile food facility must be safely parked:

(A) At least one hundred (100) feet from any intersection, including intersections with public alleys;

(B) Where the applicable speed limit is 35 mph or slower;

(C) In such a manner that travel upon the highway, vehicular access to any driveway, the view of drivers, or lawful movement of any vehicle on the public highway is not impeded;

(D) In such a manner that patrons are not permitted to do business with the mobile food vendor from their vehicles;

(E) In such a manner that patrons of the mobile food facility may safely park on the same side of the road as the mobile food facility and walk to and from the mobile food facility using a sidewalk or other area away from the highway; and.

(F) In such a manner that the window for patrons is on the side of the mobile food facility away from the traffic.

(3) At all times, at least one employee working in the mobile food facility must have a valid driver's license.

(4) The mobile food facility cannot be connected to any utility service.

(5) Unless other trash facilities are available, a mobile food facility shall provide trash containers for its patrons and shall remove the trash when the facility leaves the location. No other business equipment may be set out while the facility is parked on the street.

(6) The mobile food vendor must enter into an appropriate indemnification agreement with the County.

(b) Off-Street Operation

(1) A mobile food facility may be parked at a location off the public highway in the unincorporated area if all of the following conditions are met:

(A) The mobile food facility must be safely parked at least 20 feet from the paved edge of any public highway and, if operating on a corner lot, at least 20 feet from the corner edge of the property that is the closest to the intersection of the public highways;

(B) The mobile food facility as parked must not to impede the view of drivers on the road.

(C) Patrons of the mobile food facility must not be permitted to do business with the mobile food vendor from their vehicles;

(E) Patrons of the mobile food facility must be able to safely park on the same side of the road as the mobile food facility and walk to and from the mobile food facility using a sidewalk or other area away from the highway; and.

(F) The window for patrons must be on the side of the mobile food facility away from the traffic.

(2) Pursuant to Health and Safety Code section 114317, the exterior of a mobile food facility and the surrounding area, as relating to the operation of food service,

shall be maintained in a sanitary condition. Unless other trash facilities are available, a mobile food facility shall provide trash containers for its patrons and shall remove the trash when the facility leaves the location.

(3) Business equipment, including but not limited to tables, chairs, and awnings, must be removed when a mobile food facility leaves a particular location, unless the mobile food vendor has written permission from the property owner to leave these items at the location. Utility connections to a mobile food facility are prohibited, unless the mobile food vendor (A) has written permission from the property owner, and (B) the mobile food vendor has complied with all applicable laws and ordinances for utility hookups. Any permanent improvement constructed at a particular location shall comply with all applicable laws, ordinances, and building and other codes.

Section 2. This ordinance shall become effective March 1, 2010.