



# TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council      **Date:** December 11, 2012

**From:** Lori Lamson  
Community Development Director  
Community Development      **Item No:** 16

**Subject:** A REQUEST TO CONSIDER AN AMENDMENT TO TITLE 5, CHAPTER 5  
“BUSINESS LICENSES” REGARDING ITINERATE VENDORS OF THE  
MUNICIPAL CODE AND TITLE 9 OF THE DEVELOPMENT CODE ADDING  
CHAPTER 9.79 “MOBILE FOOD FACILITIES (MFFs)”

**Applicant:** Town of Apple Valley

**Location:** Town-wide

**T.M. Approval:** \_\_\_\_\_      **Budgeted Item:**  Yes  No  N/A

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## RECOMMENDED ACTION:

Move to open the public hearing and take testimony.

Close the public hearing. Then:

1. **Determine** that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Negative Declaration has been prepared in compliance with the California Environmental Quality Act (CEQA) and State Guidelines for the Implementation of CEQA for a request to consider an amendment to Title 5, Chapter 5, “Business Licenses”, regarding itinerate vendors of the Municipal Code and Title 9 of the Development Code adding Chapter 9.79 “Mobile Food Facilities (MFFs)”; and
2. **Find** the facts presented within the staff report, including the attached Planning Commission staff report for September 19, 2012, support the required Findings for approval of the proposed and adopt the Findings for the amendment to Title 5, Chapter 5, “Business Licenses”, regarding itinerate vendors of the Municipal Code and Title 9 of the Development Code adding Chapter 9.79 “Mobile Food Facilities (MFFs)”.
2. **Adopt** Town Council Ordinance No. 444, Amendment to Title 5, Chapter 5, “Business Licenses”, regarding itinerate vendors of the Municipal Code and Title 9 of the Development Code adding Chapter 9.79 regulations for Mobile Food Facilities/Hot Food Trucks;
4. **Move** to waive the reading of Ordinance No. 444, in its entirety and read by title only.
5. **Introduce** Ordinance No. 444, approving Development Code Amendment No. 2012-01.

6. **Direct** staff to file a Notice of Determination and Exemption with the San Bernardino County Clerk of the Board of Supervisors.

**Summary Statement:**

At the March 13, 2012, Town Council meeting, the Council initiated a Development Code Amendment to review Mobile Food Facility/Hot Food Truck vendors. The Council's direction was for the Planning Commission to conduct a workshop to include the community stakeholders and a recommendation by the Planning Commission that will be returned to the Council for consideration.

The Planning Commission held public workshops on May 2, and June 6, 2012. The focus of the Commission workshop(s) was to allow interested community stakeholders the opportunity to discuss in an open forum how adding Mobile Food Facilities (MFF) to the current Development Code would benefit the community of Apple Valley and potential food vendor businesses. The Commission recommended that new regulations be prepared amending the Development Code with affiliated regulations for MMFs.

Listed below are the standards that were discussed at the Planning Commission workshops. The Planning Commission reviewed the criteria standards at the June 6, 2012 workshop, and these changes are listed below, and within, the proposed Resolution No. 2012-04 as a new Chapter to the Development Code establishing Mobile Food Facility Permit process is described below.

On September 19, 2012, the Planning Commission approved Resolution No. 2012-04 recommending that the Town Council approve amending Title 5 "regarding itinerate vendors of the Municipal Code and Title 9 of the Development Code adding Chapter 9.79 regulations for Mobile Food Facilities/Hot Food Trucks.

As with past amendments to the Code, the Code sections below show proposed new Code language in underline (in this case italicized); whereas language proposed to be deleted is shown as ~~strikethrough~~. As directed by the Planning Commission, the first course of action, in addition to developing the regulation criteria in the Development Code for MFFs, is to modify any reference pertaining to Itinerant vendors in the Municipal Code.

Staff will be including an amendment to the Town's Fee Resolution when the second reading returns to Council for approval. A \$75.00 annual fee would cover staff time in processing these permits.

## **MUNICIPAL CODE - Title 5 Business Regulations**

### **Chapter Business License**

(g) "~~Itinerant Vendor~~ Solicitor" means hawker, ~~vendor~~, or other person who, without appointment, goes from house to house, place to place, or in or along the streets of the Town selling and making immediate delivery, or offering for sale and immediate delivery, any goods, wares, merchandise, or anything of value excluding Mobile Food Facility (MFFs). (Section 5.02.010 amended per Ordinance 270 – August 12, 2003); and

#### **5.02.260 ~~Itinerant Vendors~~ Solicitor**

The business of peddling, or hawking, ~~or street vending~~ is prohibited, and a business license shall not be issued therefore. Businesses that have a valid Town business license may solicit orders for later delivery. (Section 5.02.260 amended per Ordinance 270 dated 8-12-03)

## **DEVELOPMENT CODE Title 9**

### **Chapter 9.79 MOBILE FOOD FACILITIES (MFFs)**

#### **9.79.010 PURPOSE**

The purpose of this Chapter is to provide regulations for the establishment, operation, removal, and cleanup Mobile Food Facilities (MFFs) in the Town of Apple Valley, which does not constitute a "land use" of sufficient magnitude or longevity to require permanent land use approval.

This Chapter is intended to establish regulations and procedures for the review of any MFFs proposed within the Town of Apple Valley.

#### **9.79.020 APPLICABILITY**

Application for a MFFs permit shall be filed with the Planning Division on a form prescribed by the Community Development Director (Director) and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Director in order to review and take action on the application.

#### **9.79.030 ADMINISTRATION**

**A. Administration.** The Director is authorized by the Town Council to administer and enforce the provisions of this Chapter, unless otherwise provided in this Chapter. The Director may designate a representative to act in his/her place.

## **B. Interpretation**

1. This Chapter shall be interpreted in a manner which best fulfills the intent of its provisions.
2. Questions arising from the application of the Chapter shall be interpreted by the Director. If any inconsistency still exists in the interpretation, an appeal application shall be referred to the Planning Commission for its determination.

## **C. Appeals**

1. Any decision or determination by the Director may be appealed to the Planning Commission in accordance with the provisions of this Development Code.
2. Any decision of the Planning Commission may be appealed to the Town Council in accordance with the provisions of this Development Code.

### **9.79.040 DEFINITIONS**

A Mobile Food Facility (MFFs) is a truck-like vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed for public consumption. Catering trucks (from which pre-packaged food is sold) and hot food trucks (on which the food is prepared and then sold) and Ice Cream vehicle's are MFFs.

### **9.79.050 PERMIT REQUIRED FOR MFFs**

- A. Permit Required.** Except as otherwise provided by the Municipal Code or state or federal law, no person or entity shall advertise, conduct, maintain, operate, or provide admission for any MFFs within the incorporated areas of the Town without possessing an unexpired, unsuspended, and unrevoked MFFs permit from the Community Development Director/or designee.
1. Zoning compliance decal, business license, and County health permit must be displayed during hours of operation; and
  2. The zoning permit(s) issued for the MFFs vendor's (the annual permit held by vendor and/or the permit held by the owner of the zoning lot) may be revoked if the Director determines the MFFs prepared food vendor's operations are causing parking, traffic congestion, noise, or litter problems either on or on adjacent properties.
- B. Closure if No Permit.** A MFFs conducted without the required permit is subject to closure at any time during the business operations. It shall be the responsibility of the applicant to have the permit approval letter on-site during the business hours. The applicant, business owner, and/or landowner may be liable for the costs of the agencies participating in the closure of the business.

### **9.79.060 CONTENT AND COMPLIANCE CRITERIA OF APPLICATION**

The applicant shall supply a site plan application and other related information to the Planning Department may reasonably require based upon the location, intensity, and level of services required for each proposed MFFs. The applicant must show, provide and comply with the following criteria:

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1. Submit a site plan depicting location staging area;
2. Operate on commercial and industrial property and must have the approval of the property owner and/or designee;
3. Operate only on the property for which the permit is granted;
4. Notation of land uses must be depicted on the site plan as well as adjacent properties;
5. Facility shall be operated within 200 feet travel distance of an approved and readily available toilet and hand washing facility;
6. One MFFs truck per permit;
7. Site lighting must be provided for safety purposes and spot lights are not permitted, and lighting must not impact adjacent property owners;
8. Fire protection, including location of fire hydrants and supplemental water sources;
9. Medical/first aid facilities to be provided on site;
10. MFFs vendors shall not operate the vehicle as a drive-in window business;
11. Only a menu board sign on the vehicle is permitted and no portable or other display signs and similar like advertising are permissible;
12. No outdoor seating and tables shall be provided on site;
13. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
14. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC);
15. No MFFs are permitted on a vacant unimproved lot; and
16. The noise level from the food truck motor and generator must comply with the Town's Noise Ordinance.
17. Any damaged landscaping shall require immediate restoration;

### **9.79.070 TRAFFIC REGULATION**

Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded;

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2. No onsite required parking for the existing primary existing use or uses shall be used for the MFFs operation; and
3. At least five (5) parking spaces adjacent to the MFF must be provided for customers.

### **9.79.080 SAFETY AND UTILITIES**

1. MFFs vendors shall provide documentation of San Bernardino County Health Department approval.
2. Temporary connections to potable water is prohibited.
3. Grease shall be disposed of in a grease trap at an existing restaurant, commissary or food preparation facility (not disposed in a dumpster or storm drains).

### **9.79.090 MFFs AT CONSTRUCTION SITES AND ICE CREAM TRUCKS**

MFFs are permitted to operate in the Town on an annual basis at "construction sites" located in residential, commercial, office professional, and industrial districts. This also includes "ice cream truck routes" in residential areas.

Applicant(s) must comply with provisions contained in Chapter 9.79.060 (with the exception of conditions 4 and 5) and the applicant must show, provide and comply, with the following criteria for MFFs:

1. Operate at construction sites within residential, commercial, office professional, and industrial zoning districts;
2. Ice cream trucks are only permitted in approved routes within residential zoning districts;
3. Obtain application permit for a Mobile Food Facility;
4. Operate during normal business hours (24-7 hour operation is not permitted);
5. Facility must not exceed noise levels permissible within residential, commercial professional office and industrial zoning districts;
6. One MFF truck per permit;

7. Medical/first aid facilities to be provide;
8. Any damaged landscaping shall require immediate restoration;
9. MFFs vendors shall not operate the vehicle as a drive-in window business;
10. Only a menu board sign on the vehicle is permitted, and no portable or other display signs and similar like advertising is permissible;
11. No outdoor seating and tables shall be provided on site;
12. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
13. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC); and
14. A request to play or broadcast music from ice cream trucks must be in compliance with Development Code noise regulations as permitted within the residential districts.

#### **9.79.100 TRAFFIC REGULATION**

Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded; and
2. No ice cream truck shall park in the travel lane on any residential street to conduct business.

#### **9.79.110 FEES, BONDING AND INSURANCE**

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

#### **9.79.120 BUSINESS LICENSE AND PERMIT**

1. The MFFs vendors shall comply with all local, county and state retail sales tax regulation, including food and beverage tax regulations;

2. An annual Mobile Food Vehicle and Business License permits shall be obtained from the Town; and
3. Permitting license can be revoked per violation of the Municipal and Development Codes and other related County health and safety Code issues.
4. Coordinated complaint response and enforcement of regulations for MFFs truck operations is within the jurisdiction of the County of San Bernardino Division of Environmental Health Services (DEHS) would remain responsible for investigation and resolution of health related issues; The Town is ~~local jurisdictions would be~~ responsible for investigation and resolution of alleged violation of local safety regulations).

#### **9.79.130 APPLICATION REVIEW PROCESS**

1. Upon receipt of a completed application, site plan, and all related fees, the Department shall review the application for completeness and review the application for approval or denial.
2. The MFF shall comply with the California Environmental Quality Act (CEQA). A review will determine whether the categorical exemptions in Sections 15301 and 15304 of the CEQA Guidelines are applicable. If the MFF has the potential to cause adverse environmental impacts, an environmental review of the proposed event shall be conducted in compliance with the County Code and CEQA, and an additional environmental review fee will be required.
3. After an environmental determination has been made, or if one is not required, the Director:
  - a. May approve or deny the application; and/or
  - b. May refer the application directly to the Planning Commission for consideration;

#### **9.79.140 SUSPENSION AND REVOCATION OF PERMIT**

1. A permit may be suspended or revoked to protect the public health, safety and welfare, as well as the right to due process of permit holders per the community Development Director
2. Any decision by the Community Development Director to revoke the permit or to amend the permit can be appealed per Development code 9.79.030 C.

#### **NOTICING:**

Development Code Amendment No. 2012-001 was advertised as a public hearing in the Apple Valley News on November 30, 2012 as required under Development Code Section 9.13.030 "Notice of Public Hearings".



## **ENVIRONMENTAL REVIEW**

Staff has determined that the project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. As with the proposed Amendment which will only result in a minor change to the Code, where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.

## **FINDINGS:**

Prior to the approval of any Amendment to the Development Code, the Council, based upon the advice of the Planning Commission, must make specific "Findings" as listed within the Code. Code Section 9.06.060 "Required Findings" of Chapter 9.06 Amendments to Zoning Provisions" specifies that two (2) Findings must be made in a positive manner to approve an Amendment. These Findings, along with a comment to address each, are presented below.

- A. The proposed Amendment is consistent with the General Plan; and

Comment: The General Plan provides the basic framework for land development within the Town of Apple Valley, with the Development Code setting the specific standards and criteria to fulfill the General Plan's Goals and Policies. The proposed Code Amendment shall establish development standards for Mobile Food Facilities. The changes proposed to the Development Code, in the development standards for such mobile eateries, are consistent with the General Plan and promote convenient retail food service for the community.

- B. The proposed Amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: Amending the Code as proposed under Development Code Amendment No. 2012-001 will amend the Town's Development Code by modifying the development standards for Mobile Food Facilities. The proposal provides specific restrictions and criteria for Mobile Food Facilities. The Amendment complies with the General Plan goals and policies and is consistent with applicable California and County Code provisions. Thus, the Amendment proposed shall result in a change to the Code that addresses the community's living environment while providing for the health, safety and general welfare of the citizens of the Town of Apple Valley.

## **RECOMMENDATION:**

It is recommended that the Town Council Title 5 "regarding to itinerate vendors of the Municipal Code and Title 9 of the Development Code adding Chapter 9.79 regulations for Mobile Food Facilities/Hot Food Trucks by adopting Ordinance No. 2012-??.

Attachments:

1. Draft Ordinance No. 2012\_\_\_\_\_
2. Planning Commission Resolution No. 2012-004

3. Minute Excerpt of the Planning Commission Minute of the September 19, 2012
4. Planning Commission Staff Report of September 19, 2012 (includes May 2 and June 6, 2012 Planning Commission Minutes and Draft Resolution 2012-004).

**ORDINANCE NO. 444**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 5 REGARDING TO ITINERATE VENDORS OF THE MUNICIPAL CODE AND TITLE 9 OF THE "DEVELOPMENT CODE," ADDING CHAPTER 9.79, REGULATIONS FOR MOBILE FOOD FACILITIES OF THE TOWN OF THE APPLE VALLEY MUNICIPAL CODE.**

The Town Council of the Town of Apple Valley, State of California, does ordain as follows:

**Section 1. Recitals.**

(i) Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

(ii) Title 5 of the Municipal Code and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

(iii) Specific changes to Title 5 "Municipal Code" of the Town of Apple Valley Municipal Code include amending various sections of Chapter 9.79, related to wireless telecommunication facilities.

(iv) On October, 11, 2012, Municipal Code and Development Code Amendment No. 2012-001 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

(v) The project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State Guidelines to Implement CEQA, which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA; and

(vi) On September 19, 2012 the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised the public hearing on Development Code Amendment No. 2012-001, receiving testimony from the public and adopted Planning Commission Resolution No. 2008-008 recommending adoption of this Ordinance; and

(vii) Development Code Amendment No. 2012-001 is consistent with Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

## **Section 2. Findings.**

(i) Find that the changes proposed by Development Code Amendment No. 2012-001 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(ii) Find that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project is exempt from further environmental review. Section 15061(b)(3), states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA

(iii) Replace subsection (g) of Section 9.02.010 “Definitions” of Chapter 5.02 “Business Licenses” of Title 5 “Business Regulations” of the Town of Apple Valley Municipal Code to read as follows

(iv) Find that the changes proposed by Development Code Amendment No. 2012-001 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(v) Replace subsection (g) of Section 9.02.010 “Definitions” of Chapter 5.02 “Business Licenses” of Title 5 “Business Regulations” of the Town of Apple Valley Municipal Code to read as follows;

(g) “Solicitor” means hawker, or other person who, without appointment, goes from house to house, place to place, or in or along the streets of the Town selling and making immediate delivery, or offering for sale and immediate delivery, any goods, wares, merchandise, or anything of value excluding Mobile Food Facility (MFFs). (Section 5.02.010 amended per Ordinance 270 – August 12, 2003); and

(vi) Replace Section 5.02.260 of Chapter 5.02 “Business Licenses” of Title 5 “Business Regulations” of the Town of Apple Valley Municipal Code to read as follows;

### **5.02.260 Solicitor**

The business of peddling, or hawking, is prohibited, and a business license shall not be issued therefore. Businesses that have a valid Town business license may solicit orders for later delivery. (Section 5.02.260 amended per Ordinance 270 dated 8-12-03).

(vii) Add Chapter 9.79 “Mobile Food Facilities (MFFs)” to Title 9 “Development Code” of the Town of Apple Valley Municipal Code in its entirety to read as follows

## **Chapter 9.79 MOBILE FOOD FACILITIES (MFFs)**

### **9.79.010 PURPOSE**

The purpose of this Chapter is to provide regulations for the establishment, operation, removal, and cleanup Mobile Food Facilities (MFFs) in the Town of Apple Valley, which does not constitute a "land use" of sufficient magnitude or longevity to require permanent land use approval.

This Chapter is intended to establish regulations and procedures for the review of any MFFs proposed within the Town of Apple Valley.

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#### **9.79.030 ADMINISTRATION**

**A. Administration.** The Director is authorized by the Town Council to administer and enforce the provisions of this Chapter, unless otherwise provided in this Chapter. The Director may designate a representative to act in his/her place.

#### **B. Interpretation**

1. This Chapter shall be interpreted in a manner which best fulfills the intent of its provisions.
2. Questions arising from the application of the Chapter shall be interpreted by the Director. If any inconsistency still exists in the interpretation, an appeal application shall be referred to the Planning Commission for its determination.

#### **C. Appeals**

1. Any decision or determination by the Director may be appealed to the Planning Commission in accordance with the provisions of this Development Code.
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1. Zoning compliance decal, business license, and County health permit must be displayed during hours of operation; and
2. The zoning permit(s) issued for the MFFs vendor's (the annual permit held by vendor and/or the permit held by the owner of the zoning lot) may be revoked if the Director determines the MFFs prepared food vendor's operations are causing parking, traffic congestion, noise, or litter problems either on or on adjacent properties.

**B. Closure if no Permit.** A MFFs conducted without the required permit is subject to closure at any time during the business operations. It shall be the responsibility of the applicant to have the permit approval letter on-site during the business hours. The applicant, business owner, and/or landowner may be liable for the costs of the agencies participating in the closure of the business.

### **9.79.060 CONTENT AND COMPLIANCE CRITERIA OF APPLICATION**

The applicant shall supply a site plan application and other related information to the Planning Department may reasonably require based upon the location, intensity, and level of services required for each proposed MFFs. The applicant must show, provide and comply with the following criteria:

1. Submit a site plan depicting location staging area;
2. Operate on commercial and industrial property and must have the approval of the property owner and/or designee;
3. Operate only on the property for which the permit is granted;
4. Notation of land uses must be depicted on the site plan as well as adjacent properties;
5. Facility shall be operated within 200 feet travel distance of an approved and readily available toilet and hand washing facility;
6. One MFFs truck per permit;
7. Site lighting must be provided for safety purposes and spot lights are not permitted, and lighting must not impact adjacent property owners;
8. Fire protection, including location of fire hydrants and supplemental water sources;
9. Medical/first aid facilities to be provided on site;
10. MFFs vendors shall not operate the vehicle as a drive-in window business;
11. Only a menu board sign on the vehicle is permitted and no portable or other display signs and similar like advertising are permissible;
12. No outdoor seating and tables shall be provided on site;

13. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
14. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC);
15. No MFFs are permitted on a vacant unimproved lot; and
16. The noise level from the food truck motor and generator must comply with the Town's Noise Ordinance.
17. Any damaged landscaping shall require immediate restoration;

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Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded;
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3. At least five (5) parking spaces adjacent to the MFF must be provided for customers.

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1. Operate at construction sites within residential, commercial, office professional, and industrial zoning districts;
2. Ice cream trucks are only permitted in approved routes within residential zoning districts;

3. Obtain application permit for a Mobile Food Facility;
4. Operate during normal business hours (24-7 hour operation is not permitted);
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Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded; and
2. No ice cream truck shall park in the travel lane on any residential street to conduct business.

#### **9.79.110 FEES, BONDING AND INSURANCE**

1. Fees. All estimated total fees and charges shall be deposited by the applicant with the affected department(s) at least 30 days before the scheduled occurrence of the MFFs.
2. Bonding and insurance. The applicant may be required to provide sufficient liability insurance naming the Town as an additional named insured. The insurance shall be sufficient to protect, defend, and indemnify the Town, its agents, employees, officers, servants, and volunteers from and against any claim, damage, injury, liability, and loss of any nature arising out of, or in any way connected to, the MFFs. The amount, quality, and type of the insurance shall be determined in compliance with the policy established by the Risk Management Department. The Town may require a bond to



be posted before the MFFs to ensure that all conditions are met, including the cleanup and restoration of landscape.

#### **9.79.120 BUSINESS LICENSE AND PERMIT**

1. The MFFs vendors shall comply with all local, county and state retail sales tax regulation, including food and beverage tax regulations;
2. An annual Mobile Food Vehicle and Business License permits shall be obtained from the Town; and
3. Permitting license can be revoked per violation of the Municipal and Development Codes and other related County health and safety Code issues.
4. Coordinated complaint response and enforcement of regulations for MFFs truck operations is within the jurisdiction of the County of San Bernardino Division of Environmental Health Services (DEHS) would remain responsible for investigation and resolution of health related issues; The Town is responsible for investigation and resolution of alleged violation of local safety regulations).

#### **9.79.130 APPLICATION REVIEW PROCESS**

1. Upon receipt of a completed application, site plan, and all related fees, the Department shall review the application for completeness and review the application for approval or denial.
2. The MFF shall comply with the California Environmental Quality Act (CEQA). A review will determine whether the categorical exemptions in Sections 15301 and 15304 of the CEQA Guidelines are applicable. If the MFF has the potential to cause adverse environmental impacts, an environmental review of the proposed event shall be conducted in compliance with the County Code and CEQA, and an additional environmental review fee will be required.
3. After an environmental determination has been made, or if one is not required, the Director:
  - a. May approve or deny the application; and/or
  - b. May refer the application directly to the Planning Commission for consideration;

#### **9.79.140 SUSPENSION AND REVOCATION OF PERMIT**

1. A permit may be suspended or revoked to protect the public health, safety and welfare, as well as the rights to due process of permit holders per the Community Development Director.
2. Any decision by the Community Development Director to revoke the permit or to amend the permit can be appealed per Development Code 979.030 C.

**Section 3. Invalidation.** The amendment by this Ordinance of Title 9 “Development Code” of the Town of Apple Valley Municipal Code as previously in effect, or of any other prior enactment, shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such Title or other enactment while the same was in effect.

**Section 4. Notice of Adoption.** The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

**Section 5. Effective Date.** This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 6. Severability.** If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

Adopted by the Town Council and signed by the Mayor and attested by the Town Clerk this 8th day of January, 2013.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
La Vonda M-Pearson, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
John Brown, Town Attorney

\_\_\_\_\_  
Frank Robinson, Town Manager

**PLANNING COMMISSION RESOLUTION No. 2012-04**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND TITLE 5 REGARDING TO ITINERATE VENDORS OF THE MUNICIPAL CODE AND TITLE 9 OF THE "DEVELOPMENT CODE," ADDING CHAPTER 9.79, REGULATIONS FOR MOBILE FOOD FACILITIES OF THE TOWN OF THE APPLE VALLEY MUNICIPAL CODE.**

**WHEREAS**, Title 5 of the Municipal Code and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 5 of the Municipal Code and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, specific changes are proposed to Title 5 of the Municipal Code and Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending various sections of the Code as they relate to the regulations for wireless telecommunication; and

**WHEREAS**, on September 19, 2012, Municipal Code and Development Code Amendment No. 2012-004 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is EXEMPT from further CEQA review; and

**WHEREAS**, on September 19, 2012, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2012-004, receiving testimony from the public; and

**WHEREAS**, Municipal Code and Development Code Amendment No. 2012-004 is consistent with Title 5 of the Municipal Code and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

**NOW, THEREFORE, BE IT RESOLVED** that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, does hereby resolve, order and determine as follows and recommends that the Town Council make the following findings and take the following actions:

**Section 1.** Find that the changes proposed by Development Code Amendment

No. 2012-004 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2012-002 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Replace subsection (g) of Section 9.02.010 "Definitions" of Chapter 5.02 "Business Licenses" of Title 5 "Business Regulations" of the Town of Apple Valley Municipal Code to read as follows;

(g) "Solicitor" means hawker, or other person who, without appointment, goes from house to house, place to place, or in or along the streets of the Town selling and making immediate delivery, or offering for sale and immediate delivery, any goods, wares, merchandise, or anything of value excluding Mobile Food Facility (MFFs). (Section 5.02.010 amended per Ordinance 270 – August 12, 2003); and

**Section 4.** Replace Section 5.02.260 of Chapter 5.02 "Business Licenses" of Title 5 "Business Regulations" of the Town of Apple Valley Municipal Code to read as follows;

**5.02.260 Solicitor**

The business of peddling, or hawking, is prohibited, and a business license shall not be issued therefore. Businesses that have a valid Town business license may solicit orders for later delivery. (Section 5.02.260 amended per Ordinance 270 dated 8-12-03).

**Section 5.** Add Chapter 9.79 "Mobile Food Facilities (MFFs)" to Title 9 "Development Code" of the Town of Apple Valley Municipal Code in its entirety to read as follows:

**Chapter 9.79 MOBILE FOOD FACILITIES (MFFs)**

**9.79.010 PURPOSE**

The purpose of this Chapter is to provide regulations for the establishment, operation, removal, and cleanup Mobile Food Facilities (MFFs) in the Town of Apple Valley, which does not constitute a "land use" of sufficient magnitude or longevity to require permanent land use approval.

This Chapter is intended to establish regulations and procedures for the review of any MFFs proposed within the Town of Apple Valley.

**9.79.020 APPLICABILITY**

Application for a MFFs permit shall be filed with the Planning Division on a form prescribed by the Community Development Director (Director) and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Director in order to review and take action on the application.

#### **9.79.030 ADMINISTRATION**

**A. Administration.** The Director is authorized by the Town Council to administer and enforce the provisions of this Chapter, unless otherwise provided in this Chapter. The Director may designate a representative to act in his/her place.

#### **B. Interpretation**

1. This Chapter shall be interpreted in a manner which best fulfills the intent of its provisions.
2. Questions arising from the application of the Chapter shall be interpreted by the Director. If any inconsistency still exists in the interpretation, an appeal application shall be referred to the Planning Commission for its determination.

#### **C. Appeals**

1. Any decision or determination by the Director may be appealed to the Planning Commission in accordance with the provisions of this Development Code.
2. Any decision of the Planning Commission may be appealed to the Town Council in accordance with the provisions of this Development Code.

#### **9.79.040 DEFINITIONS**

A Mobile Food Facility (MFFs) is a truck-like vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed for public consumption. Catering trucks (from which pre-packaged food is sold) and hot food trucks (on which the food is prepared and then sold) and Ice Cream vehicle's are MFFs.

#### **9.79.050 PERMIT REQUIRED FOR MFFs**

**A. Permit Required.** Except as otherwise provided by the Municipal Code or state or federal law, no person or entity shall advertise, conduct, maintain, operate, or provide admission for any MFFs within the incorporated areas of the Town without possessing an unexpired, unsuspended, and unrevoked MFFs permit from the Community Development Director/or designee.

3. Zoning compliance decal, business license, and County health permit must be displayed during hours of operation; and
4. The zoning permit(s) issued for the MFFs vendor's (the annual permit held by vendor and/or the permit held by the owner of the zoning lot) may be revoked if the Director determines the MFFs prepared food vendor's operations are causing parking, traffic congestion, noise, or litter problems either on or on adjacent properties.

**B. Closure if no Permit.** A MFFs conducted without the required permit is subject to closure at any time during the business operations. It shall be the responsibility of the applicant to have the permit approval letter on-site during the business hours. The applicant, business owner, and/or landowner may be liable for the costs of the agencies participating in the closure of the business.

### **9.79.060 CONTENT AND COMPLIANCE CRITERIA OF APPLICATION**

The applicant shall supply a site plan application and other related information to the Planning Department may reasonably require based upon the location, intensity, and level of services required for each proposed MFFs. The applicant must show, provide and comply with the following criteria:

1. Submit a site plan depicting location staging area;
2. Operate on commercial and industrial property and must have the approval of the property owner and/or designee;
3. Operate only on the property for which the permit is granted;
4. Notation of land uses must be depicted on the site plan as well as adjacent properties;
5. Facility shall be operated within 200 feet travel distance of an approved and readily available toilet and hand washing facility;
6. One MFFs truck per permit;
7. Site lighting must be provided for safety purposes and spot lights are not permitted, and lighting must not impact adjacent property owners;
8. Fire protection, including location of fire hydrants and supplemental water sources;
9. Medical/first aid facilities to be provided on site;
10. MFFs vendors shall not operate the vehicle as a drive-in window business;
11. Only a menu board sign on the vehicle is permitted and no portable or other display signs and similar like advertising are permissible;
12. No outdoor seating and tables shall be provided on site;
13. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
14. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC);
15. No MFFs are permitted on a vacant unimproved lot; and
16. The noise level from the food truck motor and generator must comply with the Town's Noise Ordinance.
17. Any damaged landscaping shall require immediate restoration;

### **9.79.070 TRAFFIC REGULATION**

Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded;
2. No onsite required parking for the existing primary existing use or uses shall be used for the MFFs operation; and
3. At least five (5) parking spaces adjacent to the MFF must be provided for customers.

### **9.79.080 SAFETY AND UTILITIES**

1. MFFs vendors shall provide documentation of San Bernardino County Health Department approval.
2. Temporary connections to potable water is prohibited.
3. Grease shall to be disposed of in a grease trap at an existing restaurant, commissary or food preparation facility (not disposed in a dumpster or storm drains).

### **9.79.090 MFFs AT CONSTRUCTION SITES AND ICE CREAM TRUCKS**

MFFs are permitted to operate in the Town on an annual basis at "construction sites" located in residential, commercial, office professional, and industrial districts. This also includes "ice cream truck routes" in residential areas.

Applicant(s) must comply with provisions contained in Chapter 9.79.060 (with the exception of conditions 4 and 5) and the applicant must show, provide and comply, with the following criteria for MFFs:

2. Operate at construction sites within residential, commercial, office professional, and industrial zoning districts;
3. Ice cream trucks are only permitted in approved routes within residential zoning districts;
4. Obtain application permit for a Mobile Food Facility;
5. Operate during normal business hours (24-7 hour operation is not permitted);
6. Facility must not exceed noise levels permissible within residential, commercial professional office and industrial zoning districts;
7. One MFF truck per permit;
8. Medical/first aid facilities to be provide;
9. Any damaged landscaping shall require immediate restoration;
10. MFFs vendors shall not operate the vehicle as a drive-in window business;
11. Only a menu board sign on the vehicle is permitted, and no portable or other display signs and similar like advertising is permissible;
12. No outdoor seating and tables shall be provided on site;
13. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
13. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC); and
14. A request to play or broadcast music from ice cream trucks must be in compliance with Development Code noise regulations as permitted within the residential districts.

### **9.79.100 TRAFFIC REGULATION**

Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded; and
2. No ice cream truck shall park in the travel lane on any residential street to conduct business.

#### **9.79.110 FEES, BONDING AND INSURANCE**

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

#### **9.79.120 BUSINESS LICENSE AND PERMIT**

1. The MFFs vendors shall comply with all local, county and state retail sales tax regulation, including food and beverage tax regulations;
2. An annual Mobile Food Vehicle and Business License permits shall be obtained from the Town; and
3. Permitting license can be revoked per violation of the Municipal and Development Codes and other related County health and safety Code issues.
4. Coordinated complaint response and enforcement of regulations for MFFs truck operations is within the jurisdiction of the County of San Bernardino Division of Environmental Health Services (DEHS) would remain responsible for investigation and resolution of health related issues; The Town is ~~local jurisdictions would be~~ responsible for investigation and resolution of alleged violation of local safety regulations).

#### **9.79.130 APPLICATION REVIEW PROCESS**

1. Upon receipt of a completed application, site plan, and all related fees, the Department shall review the application for completeness and review the application for approval or denial.
2. The MFF shall comply with the California Environmental Quality Act (CEQA). A review will determine whether the categorical exemptions in Sections 15301 and 15304 of the CEQA Guidelines are applicable. If the MFF has the potential to cause adverse environmental impacts, an environmental review of the proposed event shall be



conducted in compliance with the County Code and CEQA, and an additional environmental review fee will be required.

3. After an environmental determination has been made, or if one is not required, the Director:
  - a. May approve or deny the application; and/or
  - b. May refer the application directly to the Planning Commission for consideration;

#### **9.79.140 SUSPENSION AND REVOCATION OF PERMIT**

1. A permit may be suspended or revoked to protect the public health, safety and welfare, as well as the rights to due process of permit holders per the Community Development Director.
2. Any decision by the Community Development Director to revoke the permit or to amend the permit can be appealed per Development Code 979.030 C.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 19th day of September, 2012

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Chairman

ATTEST:

I, Debra Thomas, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing Planning Commission Resolution No. 2012-04 was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 19th day of September 19, 2012, by the following vote, to-wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Debra Thomas , Planning Commission Secretary

## MINUTES EXCERPT

### TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday September 19, 2012

#### CALL TO ORDER

At 6:13 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for September 19, 2012, was called to order by Vice-Chairman Lamoreaux.

#### ROLL CALL

##### Planning Commission

Roll call was taken with the following members present: Commissioner David Hernandez, Commissioner Mark Shoup, Commissioner B.R. "Bob" Tinsley and Vice-Chairman Jason Lamoreaux.

#### STAFF PRESENT

Carol Miller, Senior Planner, Douglas Fenn, Senior Planner, Haviva Shane, Town Attorney and Debra Thomas, Planning Commission Secretary.

- 2. Development Code Amendment No. 2012-001.** A request to consider an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by adding Chapter 9.79 of the Development Code as it relates to Mobile Food Facility/Hot Food Trucks within the Town of Apple Valley.

**Applicant:** Town of Apple Valley

**Location:** Town-wide (Commercial Designated/Construction Sites)

Chairman Lamoreaux opened the public hearing at 6:41 p.m.

Mr. Douglas Fenn, Senior Planner presented the staff report as filed by the Planning Division.

Mr. Fenn informed the Planning Commission that the Town's attorney had recommended changes to Resolution No. 2012-04 under Section 9.79.060 Content and Compliance Criteria of Application, Item No. 3 to read, "Operate only on the property for which the permit is granted". Under 9.79.080 Safety and Utilities, Item No. 3. remove the word "to" and replace with the word "shall". Under Section 9.79.090 Itinerate MFFs at Construction Site and Ice Cream Trucks, first paragraph to include the term "located in". Under Section 9.79.120 Business License and Permit, Item No. 4 spell out the County of San Bernardino Division of Environmental Health Services, remove "local jurisdictions would be", and replace with "The Town is".

Vice-Chairman Hernandez had concern that an ice cream truck would not be able to comply with some of the specific criteria in the Development Code Amendment, specifically operating within the 200 feet travel distance of an approved and readily available toilet.

Mr. Fenn stated a change could be made to remove those specific criteria for ice cream trucks.

Discussion ensued regarding the sale of alcohol, requirements that a Mobile Food Facility (“MFF”) must have approval from the State of California’s Alcohol and Beverage Control unit (“ABC”) and whether or not ABC’s criteria is stringent enough to prevent illegal alcohol sales.

Commissioner Tinsley requested notification from staff when permits have been pulled to operate a MFF.

Commissioner Shoup commented on the Town’s night sky ordinance and wanted to know what regulations were put in place assuring MFF’s compliance.

Lengthy discussion ensued regarding concern that some of the wording contained within the Development Code Amendment is confusing. They want to be sure that hot MFFs are allowed on construction sites of new subdivisions, not established residential neighborhoods and requested changes be made to the Amendment that would convey that information more clearly.

## **PUBLIC COMMENTS**

Mr. Todd Eaves, Out of this World BBQ, Apple Valley, stated that by allowing individuals to operate MFF’s, the Town would receive tax dollars, allow an individual to succeed financially and agreed with the Planning Commission’s position on MFF’s.

Chairman Lamoreaux closed the public hearing at 7:08 p.m.

## **MOTION:**

Motion by Commissioner Tinsley, seconded by Vice-Chairman Hernandez, that the Planning Commission move to:

1. Approve Planning Commission Resolution No. 2012-002, forwarding a recommendation that the Town Council amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code adding section Chapter 9.79, with recommended changes as it relates to Mobile Food Facilities.

## **ROLL CALL VOTE:**

Ayes: Commissioner Shoup  
Commissioner Tinsley  
Vice-Chairman Hernandez  
Chairman Lamoreaux

Noes: None

Abstain: None

Absent: None

The motion carried by a 4-0-0-0 vote



## TOWN OF APPLE VALLEY PLANNING COMMISSION

Get a Slice of the Apple.

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### Staff Report

<b>AGENDA DATE:</b>	September 19, 2012
<b>CASE NUMBER:</b>	Development Code Amendment No. 2012-001
<b>APPLICANT:</b>	Town of Apple Valley
<b>PROPOSAL:</b>	A request to consider an Amendment to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by adding Chapter 9.79 of the Development Code as it relates to Mobile Food Facility/Hot Food Trucks within the Town of Apple Valley.
<b>LOCATION:</b>	Town-wide (Commercial Designated/Construction Sites)
<b>EXISTING GENERAL PLAN DESIGNATION:</b>	Commercial Land Use Designations/Town-wide
<b>EXISTING ZONING:</b>	Commercial Zoning Designations/Town-wide
<b>ENVIRONMENTAL DETERMINATION:</b>	Pursuant to Section 15061(b)(3) of the State Guidelines to implement the California Environmental Quality Act (CEQA), which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
<b>PROJECT PLANNER:</b>	Mr. Douglas Fenn, Senior Planner
<b>RECOMMENDATION:</b>	Adopt Planning Commission Resolution No. 2012-04

#### BACKGROUND

At the March 13, 2012, Town Council meeting, the Council initiated a Development Code Amendment to review Mobile Food Facility/Hot Food Truck vendors. The Council's direction was that the Planning Commission conduct a workshop to include the community stakeholders and a recommendation by the Planning Commission that will be returned to the Council for consideration.

The Planning Commission held public workshops on May 2, and June 6, 2012. The focus of the Commission workshop(s) were to allow interested community stakeholders the opportunity to discuss in an open forum how adding Mobile Food Facilities (MFF) to the current Development Code would benefit the community of Apple Valley and potential food vendor businesses. The Commission recommended that new regulations be prepared amending the Development Code with affiliated regulations for MMFs.

### ANALYSIS

Listed below are the standards that were discussed at the Planning Commission workshops. The Planning Commission concurred with the criteria standards at the last June 6, 2012, and these changes are listed below, and within, the proposed Resolution No. 2012-04 as a new Chapter to the Development Code establishing Mobile Food Facility Permit process is described below.

As with past amendments to the Code, the Code sections below show proposed new Code language in underline (in this case italicized); whereas language proposed to be deleted is shown as ~~striketrough~~. As directed by the Planning Commission, the first course of action, in addition to developing the regulation criteria in the Development Code for MFFs, is to modify any reference pertaining to Itinerant vendors in the Municipal Code.

## **MUNICIPAL CODE - Title 5 Business Regulations**

### **Chapter Business License**

(g) "~~Itinerant Vendor~~ Solicitor" means hawker, ~~vendor~~, or other person who, without appointment, goes from house to house, place to place, or in or along the streets of the Town selling and making immediate delivery, or offering for sale and immediate delivery, any goods, wares, merchandise, or anything of value excluding Mobile Food Facility (MFFs). (Section 5.02.010 amended per Ordinance 270 – August 12, 2003); and

### **5.02.260 ~~Itinerant Vendors~~ Solicitor**

The business of peddling, or hawking, ~~or street vending~~ is prohibited, and a business license shall not be issued therefore. Businesses that have a valid Town business license may solicit orders for later delivery. (Section 5.02.260 amended per Ordinance 270 dated 8-12-03)

## **PROPOSED NEW DEVELOPMENT CHAPTER - Mobile Food Facilities (MFFs)**

### **Chapter 9.79 MOBILE FOOD FACILITIES (MFFs)**

#### **9.79.010 PURPOSE**

The purpose of this Chapter is to provide regulations for the establishment, operation, removal, and cleanup Mobile Food Facilities (MFFs) in the Town of Apple Valley, which does not constitute a "land use" of sufficient magnitude or longevity to require permanent land use approval.

This Chapter is intended to establish regulations and procedures for the review of any MFFs proposed within the Town of Apple Valley.

### **9.79.020 APPLICABILITY**

Application for a MFFs permit shall be filed with the Planning Division on a form prescribed by the Community Development Director (Director) and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Director in order to review and take action on the application.

### **9.79.030 ADMINISTRATION**

**A. Administration.** The Director is authorized by the Town Council to administer and enforce the provisions of this Chapter, unless otherwise provided in this Chapter. The Director may designate a representative to act in his/her place.

#### **B. Interpretation**

1. This Chapter shall be interpreted in a manner which best fulfills the intent of its provisions.
2. Questions arising from the application of the Chapter shall be interpreted by the Director. If any inconsistency still exists in the interpretation, an appeal application shall be referred to the Planning Commission for its determination.

#### **C. Appeals**

1. Any decision or determination by the Director may be appealed to the Planning Commission in accordance with the provisions of this Development Code.
2. Any decision of the Planning Commission may be appealed to the Town Council in accordance with the provisions of this Development Code.

### **9.79.040 DEFINITIONS**

A Mobile Food Facility (MFFs) is a truck-like vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed for public consumption. Catering trucks (from which pre-packaged food is sold) and hot food trucks (on which the food is prepared and then sold) and Ice Cream vehicle's are MFFs.

### **9.79.050 PERMIT REQUIRED FOR MFFs**

**A. Permit Required.** Except as otherwise provided by the Municipal Code or state or federal law, no person or entity shall advertise, conduct, maintain, operate, or provide admission for any MFFs within the incorporated areas of the Town without possessing an unexpired, unsuspended, and unrevoked MFFs permit from the Community Development Director/or designee.

1. Zoning compliance decal, business license, and County health permit must be displayed during hours of operation; and
2. The zoning permit(s) issued for the MFFs vendor's (the annual permit held by vendor and/or the permit held by the owner of the zoning lot) may be revoked if the Director

determines the MFFs prepared food vendor's operations are causing parking, traffic congestion, noise, or litter problems either on or on adjacent properties.

**B. Closure if no Permit.** A MFFs conducted without the required permit is subject to closure at any time during the business operations. It shall be the responsibility of the applicant to have the permit approval letter on-site during the business hours. The applicant, business owner, and/or landowner may be liable for the costs of the agencies participating in the closure of the business.

#### **9.79.060 CONTENT AND COMPLIANCE CRITERIA OF APPLICATION**

The applicant shall supply a site plan application and other related information to the Planning Department may reasonably require based upon the location, intensity, and level of services required for each proposed MFFs. The applicant must show, provide and comply with the following criteria:

1. Submit a site plan depicting location staging area;
2. Operate on commercial and industrial property and must have the approval of the property owner and/or designee;
3. Notation of land uses must be depicted on the site plan as well as adjacent properties;
4. Facility shall be operated within 200 feet travel distance of an approved and readily available toilet and hand washing facility;
5. One MFFs truck per permit;
6. Site lighting must be provided for safety purposes and spot lights are not permitted, and lighting must not impact adjacent property owners;
7. Fire protection, including location of fire hydrants and supplemental water sources;
8. Medical/first aid facilities to be provided on site;
9. MFFs vendors shall not operate the vehicle as a drive-in window business;
10. Only a menu board sign on the vehicle is permitted and no portable or other display signs and similar like advertising are permissible;
11. No outdoor seating and tables shall be provided on site;
12. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
13. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC);
14. No MFFs are permitted on a vacant unimproved lot; and

15. The noise level from the food truck motor and generator must comply with the Town's Noise Ordinance.
16. Any damaged landscaping shall require immediate restoration;

#### **9.79.070 TRAFFIC REGULATION**

Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded;
2. No onsite required parking for the existing primary existing use or uses shall be used for the MFFs operation; and
3. At least five (5) parking spaces adjacent to the MFFs must be provided for customers.

#### **9.79.080 SAFETY AND UTILITIES**

1. MFFs vendors shall provide documentation of San Bernardino County Health Department approval.
2. Temporary connections to potable water is prohibited.
3. Grease to be disposed of in a grease trap at an existing restaurant, commissary or food preparation facility (not disposed in a dumpster or storm drains).

#### **9.79.090 ITINERATE MFFs AT CONSTRUCTION SITE AND ICE CREAM TRUCKS**

Itinerate MFFs are permitted to operate in the Town on an annual basis at "construction sites" residential, commercial and industrial districts. This also includes "ice cream truck routes" in residential areas.

Applicant(s) must comply with provisions contained in Chapter 9.79.060 (Content and Compliance Criteria of Application) and the applicant must show, provide and comply, with the following criteria for itinerate MFFs:

1. Operate in residential, commercial, and office professional zoning districts;
2. Only MFF ice cream trucks are permitted in residential zoning districts;
3. Obtain application permit for itinerate (Mobile Food Facility);
4. Operate during normal business hours (24-7 hour operation is not permitted);
5. Facility must not exceed noise levels permissible within commercial and professional zoning districts;
6. One MFF truck per permit;
7. Medical/first aid facilities to be provide;



8. Any damaged landscaping shall require immediate restoration;
9. MFFs vendors shall not operate the vehicle as a drive-in window business;
10. Only a menu board sign on the vehicle is permitted, and no portable or other display signs and similar like advertising is permissible;
11. No outdoor seating and tables shall be provided on site;
10. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
13. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC); and
14. A request to play or broadcast music from ice cream trucks must be in compliance with Development Code noise regulations as permitted within the residential districts.

#### **9.79.100 TRAFFIC REGULATION**

Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded; and
2. No ice cream truck shall park in the travel lane on any residential street to conduct business.

#### **9.79.110 FEES, BONDING AND INSURANCE**

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

#### **9.79.120 BUSINESS LICENSE AND PERMIT**

1. The MFFs vendors shall comply with all local, county and state retail sales tax regulation, including food and beverage tax regulations;
2. An annual Mobile Food Vehicle and Business License permits shall be obtained from the Town; and

3. Permitting license can be revoked per violation of the Municipal and Development Codes and other related County health and safety Code issues.
4. Coordinated complaint response and enforcement of regulations for MFFs truck operations (DEHS) would remain responsible for investigation and resolution of health related issues; local jurisdictions would be responsible for investigation and resolution of alleged violation of local safety regulations).

#### **9.79.130 APPLICATION REVIEW PROCESS**

1. Upon receipt of a completed application, site plan, and all related fees, the Department shall the application for completeness and review the application for approval or denial.
2. The MFF shall comply with the California Environmental Quality Act (CEQA). A review will determine whether the categorical exemptions in Sections 15301 and 15304 of the CEQA Guidelines are applicable. If the MFF has the potential to cause adverse environmental impacts, an environmental review of the proposed event shall be conducted in compliance with the County Code and CEQA, and an additional environmental review fee will be required.
3. After an environmental determination has been made, or if one is not required, the Director:
  - a. May approve or deny the application; and/or
  - b. May refer the application directly to the Planning Commission for consideration;

#### **9.79.140 SUSPENSION AND REVOCATION OF PERMIT**

1. A permit may be suspended or revoked to protect the public health, safety and welfare, as well as the rights to due process of permit holders per the Community Development Director.
2. Any decision by the Community Development Director to revoke the permit or to amend the permit can be appealed per Development Code 979.030 C.

#### **FINDINGS**

An amendment to the Municipal and Development Code(s) requires that the Planning Commission address two (2) required "Findings" as listed within Development Code Section 9.06.060. As presented within past staff reports, the required Findings are listed below, along with a comment addressing each, for Commission consideration. If the Commission concurs with these comments, it may be adopted and forwarded to the Council for its consideration of the Municipal and Development Code(s) Amendments. If the Commission wishes modifications to the offered comments after considering input and public testimony at the public hearing, modifications to the Findings and Code Amendments recommendations can be included in the information forwarded to the Council for consideration.

Required "Findings":

- A. The proposed Amendment is consistent with the General Plan; and

Comment: The General Plan provides the basic framework for land development within the Town of Apple Valley, with the Development Code setting the specific standards and criteria to fulfill the General Plan's Goals and Policies. The proposed Code Amendment shall establish development standards for Mobile Food Facilities. The changes proposed to the Development Code, in the development standards for such mobile eateries, are consistent with the General Plan and promote convenient retail food service for the community.

- B. The proposed Amendment will not be detrimental to the public health, safety or welfare of the Town or its residents.

Comment: Amending the Code as proposed under Development Code Amendment No. 2012-001 will amend the Town's Development Code by modifying the development standards for Mobile Food Facilities. The proposal provides specific restrictions and criteria for Mobile Food Facilities. The Amendment complies with the General Plan goals and policies and is consistent with applicable California and County Code provisions. Thus, the Amendment proposed shall result in a change to the Code that addresses the community's living environment while providing for the health, safety and general welfare of the citizens of the Town of Apple Valley.

NOTICING

Development Code Amendment No. 2012-001 was advertised as a public hearing in the Apple Valley News newspaper on September 7, 2012 as required under Development Code Section 9.13.030 "Notice of Public Hearings".

RECOMMENDATION

Following receipt of public input and discussion by the Commission, it is recommended that the Commission move to approve Planning Commission Resolution No. 2012-002, forwarding a recommendation that the Town Council amend Title 5 "regarding itinerate vendors of the Municipal Code and Title 9 of the Development Code adding Chapter 9.79 regulations for Mobile Food Facilities/Hot Food Trucks..

**Prepared By:**

**Reviewed By:**

\_\_\_\_\_  
Douglas Fenn  
Senior Planner

\_\_\_\_\_  
Lori Lamson  
Community Development Director

Attachments:

Minutes Excerpt from the Planning Commission meetings of May 2 and June 6, 2012.  
Draft Planning Commission Resolution No. 2012-04.

## **MINUTES EXCERPT**

### **TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting May 2, 2012**

#### **CALL TO ORDER**

At 6:02 p.m., the Workshop and Regular Meeting of the Planning Commission of the Town of Apple Valley for May 2, 2012, was called to order by Chairman Cusack.

#### **ROLL CALL**

##### **Planning Commission**

Roll call was taken with the following members present: Commissioner David Hernandez, Commissioner Mark Shoup, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Jason Lamoreaux, and Chairman Larry Cusack.

#### **STAFF PRESENT**

Lori Lamson, Acting Director of Community Development; Doug Fenn, Senior Planner; Carol Miller, Senior Planner; Pam Cupp, Associate Planner; Haviva Shane, Town Attorney; and Debra Thomas, Planning Commission Secretary.

#### **2. WORKSHOP ITEM**

The Planning Commission discussed and took public testimony pertaining to the development standards and permitting requirements for Mobile Food Facility/Hot Food Trucks within the Town of Apple Valley ("Town").

Mr. Doug Fenn, Senior Planner, presented the staff report as filed by the Planning Division.

Lengthy discussion ensued between the members of the Planning Commission presenting their opinions, questions, concerns and options on whether to allow Mobile Food Facilities within the Town.

#### **PUBLIC COMMENTS**

Ms. Janice Moore, Apple Valley Chamber of Commerce, conveyed the Chamber's support for Mobile Food Facilities. Ms. Moore provided some guidelines she believed the Town should consider that would assist in the success of Mobile Food Facilities as well as licensing and permitting.

Mr. Vincent Ajanwachuku, Apple Valley, explained his support for Mobile Food Facilities and believed that a decision to allow them would be beneficial to employees of small businesses allowing them more options with a limited time for lunch.

Mr. Chet Hitt, Apple Valley, believed allowing Mobile Food Facilities to be a good idea but questioned whether problems would arise if a Mobile Food Facility were parked in front of a brick and mortar restaurant. He explained his biggest concern was the issue of sanitation and wanted to know how that would be addressed.

Ms. Lori Lamson, Acting Director of Community Development, explained that San Bernardino County Environmental Health Code requirements would address the issue of sanitation.

Mr. Hitt asked whether a property owner could lease a spot in front of its business to a Mobile Food Facility.

Ms. Lamson responded that the Town would require seeing a copy of the agreement between an owner and a Mobile Food Facility, but the Town would not regulate the monetary exchange.

Further discussion ensued between the members of the Planning Commission regarding how the Town can regulate Mobile Food Facility permits, location, parking and aesthetics.

Mr. James Krider, Apple Valley, informed the Planning Commission that he owned a Mobile Food Facility and his office is located next door to St. Mary's Medical Center. He asked if he parked his truck behind his office, could he serve the local walking community without being required to have designated parking spaces.

Chairman Cusack stated that the Town's Code requires businesses to have designated parking spaces and there would be a parking requirement, however, that would need to be discussed further and placed in the upcoming draft resolution.

**MOTION:**

The Commission, by consensus, provided guidance to assist staff in creating a draft Planning Commission Resolution with appropriate language. Staff will then return to the Planning Commission with draft language for consideration. After adoption of a Resolution by the Planning Commission, it would be forwarded to the Town Council for consideration and final action.

**MINUTES EXCERPT**

**TOWN OF APPLE VALLEY  
PLANNING COMMISSION  
Workshop and Regular Meeting**

**June 6, 2012**

**CALL TO ORDER**

At 6:01 p.m., the Workshop and Regular Meeting of the Planning Commission of the Town of Apple Valley for June 6, 2012, was called to order by Chairman Cusack.

**ROLL CALL**

**Planning Commission**

Roll call was taken with the following members present: Commissioner David Hernandez, Commissioner Mark Shoup, Vice-Chairman Jason Lamoreaux, and Chairman Larry Cusack. Absent: Commissioner B.R. "Bob" Tinsley.

**STAFF PRESENT**

Lori Lamson, Acting Director of Community Development; Doug Fenn, Senior Planner; Parish Knox. Town Attorney; and Debra Thomas, Planning Commission Secretary.

**2. WORKSHOP ITEM**

The Planning Commission discussed and took public testimony pertaining to the development standards and permitting requirements for Mobile Food Facility/Hot Food Trucks within the Town of Apple Valley ("Town").

Mr. Doug Fenn, Senior Planner, presented the staff report as filed by the Planning Division.

The Planning Commission was advised that the San Bernardino County Board of Supervisors approved Mobile Food Facilities; however, it would not permit parking and/or use in the public rights-of-way.

Lengthy discussion ensued between the members of the Planning Commission , presenting their opinions, questions, concerns and options, on whether to allow Mobile Food Facility/Hot Food Trucks within the Town.

**PUBLIC COMMENTS**

None.

**MOTION:**

The Commission, by consensus, provided guidance to assist staff in creating a draft Planning Commission resolution with appropriate language. Staff will then schedule a public hearing and return to the Planning Commission with a resolution for consideration. After adoption of the resolution by the Planning Commission, it would be forwarded to the Town Council for consideration and final action.

**PLANNING COMMISSION RESOLUTION No. 2012-04**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, RECOMMENDING THAT THE TOWN COUNCIL AMEND TITLE 5 REGARDING TO ITINERATE VENDORS OF THE MUNICIPAL CODE AND TITLE 9 OF THE "DEVELOPMENT CODE," ADDING CHAPTER 9.79, REGULATIONS FOR MOBILE FOOD FACILITIES OF THE TOWN OF THE APPLE VALLEY MUNICIPAL CODE.**

**WHEREAS**, Title 5 of the Municipal Code and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

**WHEREAS**, Title 5 of the Municipal Code and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

**WHEREAS**, specific changes are proposed to Title 5 of the Municipal Code and Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending various sections of the Code as they relate to the regulations for Mobile Food Facilities/Hot Food Trucks; and

**WHEREAS**, on September 19, 2012, Municipal Code and Development Code Amendment No. 2012-004 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is EXEMPT from further CEQA review; and

**WHEREAS**, on September 19, 2012, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2012-004, receiving testimony from the public; and

**WHEREAS**, Municipal Code and Development Code Amendment No. 2012-004 is consistent with Title 5 of the Municipal Code and Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

**NOW, THEREFORE, BE IT RESOLVED** that in consideration of the evidence presented at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission of the Town of Apple Valley, California, does hereby resolve, order and determine as follows and recommends that the Town Council make the following findings and take the following actions:



**Section 1.** Find that the changes proposed by Development Code Amendment No. 2012-004 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

**Section 2.** Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be determined that the Code amendment is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as with the proposed Code Amendment, that there is no possibility that the proposal approved under Development Code Amendment No. 2012-002 will have a significant effect on the environment and, therefore, the Amendment is EXEMPT from further environmental review.

**Section 3.** Replace subsection (g) of Section 9.02.010 "Definitions" of Chapter 5.02 "Business Licenses" of Title 5 "Business Regulations" of the Town of Apple Valley Municipal Code to read as follows;

- (g) "Solicitor" means hawker, or other person who, without appointment, goes from house to house, place to place, or in or along the streets of the Town selling and making immediate delivery, or offering for sale and immediate delivery, any goods, wares, merchandise, or anything of value excluding Mobile Food Facility (MFFs). (Section 5.02.010 amended per Ordinance 270 – August 12, 2003); and

**Section 4.** Replace Section 5.02.260 of Chapter 5.02 "Business Licenses" of Title 5 "Business Regulations" of the Town of Apple Valley Municipal Code to read as follows;

**5.02.260 Solicitor**

The business of peddling, or hawking, is prohibited, and a business license shall not be issued therefore. Businesses that have a valid Town business license may solicit orders for later delivery. (Section 5.02.260 amended per Ordinance 270 dated 8-12-03).

**Section 5.** Add Chapter 9.79 "Mobile Food Facilities (MFFs)" to Title 9 "Development Code" of the Town of Apple Valley Municipal Code in its entirety to read as follows:

**Chapter 9.79 MOBILE FOOD FACILITIES (MFFs)**

**9.79.010 PURPOSE**

The purpose of this Chapter is to provide regulations for the establishment, operation, removal, and cleanup Mobile Food Facilities (MFFs) in the Town of Apple Valley, which does not constitute a "land use" of sufficient magnitude or longevity to require permanent land use approval.

This Chapter is intended to establish regulations and procedures for the review of any MFFs proposed within the Town of Apple Valley.

### **9.79.020 APPLICABILITY**

Application for a MFFs permit shall be filed with the Planning Division on a form prescribed by the Community Development Director (Director) and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Director in order to review and take action on the application.

### **9.79.030 ADMINISTRATION**

**A. Administration.** The Director is authorized by the Town Council to administer and enforce the provisions of this Chapter, unless otherwise provided in this Chapter. The Director may designate a representative to act in his/her place.

#### **B. Interpretation**

1. This Chapter shall be interpreted in a manner which best fulfills the intent of its provisions.
2. Questions arising from the application of the Chapter shall be interpreted by the Director. If any inconsistency still exists in the interpretation, an appeal application shall be referred to the Planning Commission for its determination.

#### **C. Appeals**

1. Any decision or determination by the Director may be appealed to the Planning Commission in accordance with the provisions of this Development Code.
2. Any decision of the Planning Commission may be appealed to the Town Council in accordance with the provisions of this Development Code.

### **9.79.040 DEFINITIONS**

A Mobile Food Facility (MFFs) is a truck-like vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed for public consumption. Catering trucks (from which pre-packaged food is sold) and hot food trucks (on which the food is prepared and then sold) and Ice Cream vehicle's are MFFs.

### **9.79.050 PERMIT REQUIRED FOR MFFs**

**A. Permit Required.** Except as otherwise provided by the Municipal Code or state or federal law, no person or entity shall advertise, conduct, maintain, operate, or provide admission for any MFFs within the incorporated areas of the Town without possessing an unexpired, unsuspended, and unrevoked MFFs permit from the Community Development Director/or designee.

5. Zoning compliance decal, business license, and County health permit must be displayed during hours of operation; and
6. The zoning permit(s) issued for the MFFs vendor's (the annual permit held by vendor and/or the permit held by the owner of the zoning lot) may be revoked if the Director determines the MFFs prepared food vendor's operations are causing parking, traffic congestion, noise, or litter problems either on or on adjacent properties.

**B. Closure if no Permit.** A MFFs conducted without the required permit is subject to closure at any time during the business operations. It shall be the responsibility of the applicant to have the permit approval letter on-site during the business hours. The applicant, business owner, and/or landowner may be liable for the costs of the agencies participating in the closure of the business.

#### **9.79.060 CONTENT AND COMPLIANCE CRITERIA OF APPLICATION**

The applicant shall supply a site plan application and other related information to the Planning Department may reasonably require based upon the location, intensity, and level of services required for each proposed MFFs. The applicant must show, provide and comply with the following criteria:

1. Submit a site plan depicting location staging area;
2. Operate on commercial and industrial property and must have the approval of the property owner and/or designee;
3. Operate only on the property for which the permit is granted;
4. Notation of land uses must be depicted on the site plan as well as adjacent properties;
5. Facility shall be operated within 200 feet travel distance of an approved and readily available toilet and hand washing facility;
6. One MFFs truck per permit;
7. Site lighting must be provided for safety purposes and spot lights are not permitted, and lighting must not impact adjacent property owners;
8. Fire protection, including location of fire hydrants and supplemental water sources;
9. Medical/first aid facilities to be provided on site;
10. MFFs vendors shall not operate the vehicle as a drive-in window business;
11. Only a menu board sign on the vehicle is permitted and no portable or other display signs and similar like advertising are permissible;
12. No outdoor seating and tables shall be provided on site;
13. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
14. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC);
15. No MFFs are permitted on a vacant unimproved lot; and
16. The noise level from the food truck motor and generator must comply with the Town's Noise Ordinance.
17. Any damaged landscaping shall require immediate restoration;

### **9.79.070 TRAFFIC REGULATION**

Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded;
2. No onsite required parking for the existing primary existing use or uses shall be used for the MFFs operation; and
3. At least five (5) parking spaces adjacent to the MFF must be provided for customers.

### **9.79.080 SAFETY AND UTILITIES**

1. MFFs vendors shall provide documentation of San Bernardino County Health Department approval.
1. Temporary connections to potable water is prohibited.
3. Grease shall ~~to~~ be disposed of in a grease trap at an existing restaurant, commissary or food preparation facility (not disposed in a dumpster or storm drains).

### **9.79.090 MFFs AT CONSTRUCTION SITES AND ICE CREAM TRUCKS**

MFFs are permitted to operate in the Town on an annual basis at "construction sites" located in residential, commercial, office professional, and industrial districts. This also includes "ice cream truck routes" in residential areas.

Applicant(s) must comply with provisions contained in Chapter 9.79.060 (with the exception of conditions 4 and 5) and the applicant must show, provide and comply, with the following criteria for MFFs:

1. Operate at construction sites within residential, commercial, office professional, and industrial zoning districts;
2. Ice cream trucks are only permitted in approved routes within residential zoning districts;
3. Obtain application permit for a Mobile Food Facility;
4. Operate during normal business hours (24-7 hour operation is not permitted);
5. Facility must not exceed noise levels permissible within residential, commercial professional office and industrial zoning districts;
6. One MFF truck per permit;
7. Medical/first aid facilities to be provide;
8. Any damaged landscaping shall require immediate restoration;

9. MFFs vendors shall not operate the vehicle as a drive-in window business;
10. Only a menu board sign on the vehicle is permitted, and no portable or other display signs and similar like advertising is permissible;
11. No outdoor seating and tables shall be provided on site;
12. The MFFs must have a Town approved annual sticker visibly displayed prominently on the vehicle;
13. Any sale of alcohol must have approval from the Alcohol and Beverage Control (ABC); and
14. A request to play or broadcast music from ice cream trucks must be in compliance with Development Code noise regulations as permitted within the residential districts.

#### **9.79.100 TRAFFIC REGULATION**

Traffic regulation issues such as operation in parking and congestion.

1. No ingress/egress shall be blocked or impeded; and
2. No ice cream truck shall park in the travel lane on any residential street to conduct business.

#### **9.79.110 FEES, BONDING AND INSURANCE**

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

#### **9.79.120 BUSINESS LICENSE AND PERMIT**

1. The MFFs vendors shall comply with all local, county and state retail sales tax regulation, including food and beverage tax regulations;
2. An annual Mobile Food Vehicle and Business License permits shall be obtained from the Town; and
3. Permitting license can be revoked per violation of the Municipal and Development Codes and other related County health and safety Code issues.

4. Coordinated complaint response and enforcement of regulations for MFFs truck operations is within the jurisdiction of the County of San Bernardino Division of Environmental Health Services (DEHS) would remain responsible for investigation and resolution of health related issues; The Town is ~~local jurisdictions would be~~ responsible for investigation and resolution of alleged violation of local safety regulations).

#### **9.79.130 APPLICATION REVIEW PROCESS**

1. Upon receipt of a completed application, site plan, and all related fees, the Department shall review the application for completeness and review the application for approval or denial.
2. The MFF shall comply with the California Environmental Quality Act (CEQA). A review will determine whether the categorical exemptions in Sections 15301 and 15304 of the CEQA Guidelines are applicable. If the MFF has the potential to cause adverse environmental impacts, an environmental review of the proposed event shall be conducted in compliance with the County Code and CEQA, and an additional environmental review fee will be required.
3. After an environmental determination has been made, or if one is not required, the Director:
  - a. May approve or deny the application; and/or
  - b. May refer the application directly to the Planning Commission for consideration;

#### **9.79.140 SUSPENSION AND REVOCATION OF PERMIT**

1. A permit may be suspended or revoked to protect the public health, safety and welfare, as well as the rights to due process of permit holders per the Community Development Director.
2. Any decision by the Community Development Director to revoke the permit or to amend the permit can be appealed per Development Code 979.030 C.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 19th day of September, 2012

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\_\_\_\_\_

Chairman

ATTEST:

I, Debra Thomas, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing Planning Commission Resolution No. 2012-04 was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 19th day of September 19, 2012, by the following vote, to-wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Debra Thomas, Planning Commission Secretary