

MEMORANDUM

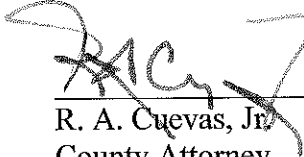
Agenda Item No. 7(O)

TO: Honorable Vice Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners **DATE:** December 4, 2012

FROM: R. A. Cuevas, Jr.
County Attorney **SUBJECT:** Ordinance relating to zoning; amending Section 33-13 of the Code; reauthorizing and amending the provisions regulating mobile food service operations special events

This item differs from the original version as stated in the Mayor's memorandum.

The accompanying ordinance was prepared by Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.

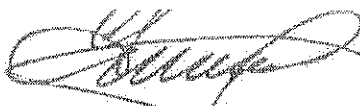


R. A. Cuevas, Jr.
County Attorney

RAC/smm

Date: December 4, 2012

To: Honorable Vice Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Proposed Zoning Ordinance Reauthorizing and Amending the requirements for Mobile Food Service Operation Special Event

This substitute ordinance differs from the original in that the body of the item includes a section which repeals the sunset provision of Ordinance No. 11-32 to allow for the reauthorization of the regulations as referenced in the title of the original item.

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance reauthorizing and amending the requirements for Mobile Food Service Operations Special Event.

Scope

The proposed ordinance applies to the unincorporated areas of Miami-Dade County.

Fiscal Impact/Funding Source

The proposed ordinance creates no new fiscal impact on Miami-Dade County.

Track Record/Monitor

Eric Silva, Assistant Director for the Development Services Division of the Department of Regulatory and Economic Resources (RER), will be responsible for the administration and implementation of this ordinance.

Background

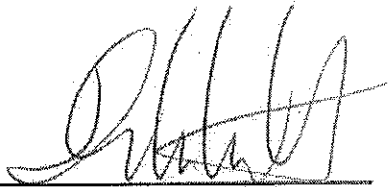
On May 17, 2011, the Board of County Commissioners adopted Ordinance No. 11-32 which provided for the operation of food truck round-ups (Mobile Food Service Special Events) in the commercial, industrial zoning districts as well as limited uses in the residential zoning districts. The ordinance contained a sunset provision which indicated that the regulations shall stand repealed 18 months after adoption unless reauthorized by the Board. Further, at adoption, the Board directed the administration to compile a report on the implementation of the regulations within one year following the effective date. The initial Sunset Review Report was distributed on June 19, 2012. Attached is an updated version that provides the information necessary to allow the Board to consider the reauthorization of Board Ordinance No. 11-32.

During the drafting of the attached report, feedback was compiled from industry representatives, the Zoning Permitting Division of RER and the Miami-Dade Police Department to identify issues encountered in the implementation of the food truck provisions. Feedback focused on two main areas: regulations and permitting requirements. To address the feedback related to permitting, staff from the RER and the Water and Sewer Department reviewed the permitting procedures and found opportunities to streamline the permitting process, thereby resulting in a reduction in the permitting time and cost. To address the feedback related to the regulations, the proposed ordinance contains the following amendments to the current regulations:

- Limits the number of consecutive days that an event may operate to three.
- Clarifies that events held in public parks, sports stadiums and racetracks are exempt from the mobile food service special event provisions.

- Expands the districts where food truck round-ups are permitted to include residentially-zoned properties with occupancy as a school, church, museum, government facility or hospital.
- Requires special event signage to be indicated on the site plan submitted as part of the Certificate of Use application.

It is recommended that the Board reauthorize the provisions of Ordinance 11-32 to allow for the continuation of the food truck special events. The provisions of the food truck round-up ordinance provide greater flexibility for food truck special events than is otherwise permitted by the Zoning Code.



Jack Osterholt, Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Vice Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: December 4, 2012

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(o)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(0)
12-4-12

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; AMENDING SECTION 33-13 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REAUTHORIZING AND AMENDING THE PROVISIONS REGULATING MOBILE FOOD SERVICE OPERATIONS SPECIAL EVENTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-13 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-13. - Unusual uses.

* * *

- (h) Mobile Food Service Operations Special Event (MOFSE). Special event consisting of a concentration of Mobile Food Service Operations shall be permitted without a public hearing provided:
- (1) The MOFSE shall:
- (a) Be limited to one (1) MOFSE per week >>not to exceed three consecutive days at a given site,<<[[~~at the same location per calendar year,~~]]
 - (b) Be permitted to operate in properties in commercial, industrial, urban center districts, [[and-]]GU (where trended for industrial or commercial use) zoning districts >>and in residential zoning districts on properties having a current Certificate of Use and occupancy as a museum, hospital, school, government

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

facility or church<<.

- (c) Operate no later than 10:00 p.m. on weekdays, midnight on weekends, and 1:00 a.m. on weekends in industrial areas where there are no residential areas within one thousand (1,000) feet. Up to four days per year, a MOFSE may operate until midnight on a weekday, provided that it occurs on a holiday, and provided that these four dates are included as part of the schedule of events provided in the application and are indicated on the Certificate of Use.
 - (d) Not permit the sale of alcoholic beverages.
 - >>(e)<<[[~~(f)~~]] Obtain a building permit from the Building and Neighborhood Compliance Department in the event of erection of temporary structures or stages.
- (2) A Certificate of Use shall be obtained for each MOFSE site on an annual basis.
- (a) A Certificate of Use (CU) package for MOFSE sites shall be obtained, completed and submitted to the Department of Planning and Zoning. The completed package shall include all of the following:
 - (1) Notarized letter from property owner of record authorizing the MOFSE described in the application package and designating a MOFSE Coordinator and an alternate.
 - (2) Written waivers of objection from eighty (80) percent of the owners or residents of residentially zoned properties within one thousand (1,000) feet. The Director shall not count unoccupied properties in calculating the eighty (80) percent.
 - (3) Schedule of events.
 - (4) Notification and sign-off from Miami-Dade Police Department.
 - (5) A traffic safety and security plan.
 - (6) Narrative from applicant describing the hours of operations, estimated public attendance, and description of any other amenities provided.
 - (7) Copies of State licenses of each of the individual Mobile Food Service Operations participating.
 - (8) The maximum number of individual Mobile Food Service Operations which may be present at the MOFSE. This maximum number shall be indicated on the Certificate of Use.
 - (9) Site plan or survey indicating the following, which shall consider the MOFSE's estimated public attendees and the maximum number of individual

Mobile Food Service Operations:

- (a) General placement of the individual Mobile Food Service Operations.
- (b) Location of refuse facilities, if not hauled away by the individual Mobile Food Service Operations.
- (c) Location of sanitation facilities.
- (d) Location of on-site and off-site parking areas.
- (e) Lighting fixtures, if applicable.
- (f) Rights-of-way, internal circulation and ingress and egress.

>>(g) Class A (temporary signs) shall meet the requirements for special event signage. Location, number and size shall be indicated on the site plan.<<

(b) If it is found that the MOFSE is operating in manner not consistent with the representations made in the application package provided to the Department or that the MOFSE coordinator fails to comply with the provisions of Section 33-13(h)(3), the Director shall have the authority to revoke the CU immediately.

(3) MOFSE Coordinator. The designated MOFSE Coordinator or alternate shall:

- (a) Assist in the placement/positioning of individual Mobile Food Service Operations in a MOFSE.
- (b) Maintain for inspection at MOFSE site all pertinent documentation provided by the individual Mobile Food Service Operations such as proof of licensing and insurance.
- (c) Assure compliance with hours, clean-up and other CU requirements.

>>(4) MOFSE located at County parks, sports stadiums or racetracks during events shall be exempt from the requirements of this Section but must otherwise comply with all other applicable requirements in this Code.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and

be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

>>Section 4. The sunset provision contained in Ordinance 11-32 is hereby repealed.

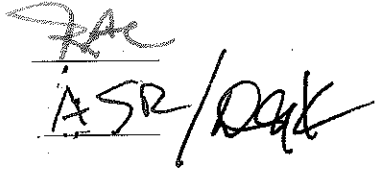
Section 5.<<[[~~Section 4.~~]]² This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Abbie Schwaderer-Raurell



Handwritten signatures: JAC and ASR/DAK

² The differences between the substitute and the original item are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

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**SUNSET REVIEW REPORT FOR
MOBILE FOOD SERVICE SPECIAL EVENTS
(ORDINANCE 11-32)**

MIAMI-DADE COUNTY
DEPARTMENT OF REGULATORY AND ECONOMIC RESOURCES

SEPTEMBER 12, 2012

Introduction:

On May 17, 2011, the Board of County Commissioner (BCC) adopted Ordinance 11-32 which provides for Mobile Food Service Special Events ("food truck round-ups"). The ordinance contains a sunset provision which indicates that the provisions of the ordinance shall stand repealed 18 months after adoption unless reauthorized by the BCC. At adoption, the BCC directed staff to compile a report summarizing the effectiveness of the provisions within one year following the effective date. This report provides an analysis on the implementation of Ordinance 11-32 and is intended to inform a decision by the BCC on whether to reauthorize the provisions of the ordinance.

A companion ordinance, #11-92, was adopted by the BCC on November 15, 2011 which provided for mobile operations (including food trucks) on private, developed property. In contrast to Ordinance 11-32 which specifically related to food truck special events, Ordinance 11-92 provides for up to three individual food trucks (in addition to flower vendors and fruit/vegetable stands) to operate continuously from a given site or rotate among several sites. Up to five may operate from a given site when limited to six days in a thirty-day time period.

This report specifically addresses the food truck round-ups as authorized in Ordinance 11-32 and, to a limited extent, also addresses the companion ordinance related to individual food trucks (Ordinance 11-92). A sunset report more fully addressing the effectiveness of the provisions of Ordinance 11-92 will be presented to the BCC in November, 2012, one year following the effective date of the ordinance.

Background and Summary of Regulations:

The ordinances addressing food truck operations were adopted in response to a trend that was occurring in Miami-Dade County and nationwide. Cities around the nation had already adopted similar provisions allowing for food truck operations. Prior to the adoption of the food truck round-up regulations, events were already occurring on sites throughout the community including shopping centers, automobile dealerships, and office building sites.

Prior to the adoption of Ordinance 11-32, food truck special events could be permitted under Section 33-13(g) of the Zoning Code which allows for special events such as circuses and carnivals on properties located inside the Urban Development Boundary and zoned GU, AU, BU-2, BU-3, IU-1, IU-2 and IU-3 as well as properties in other zoning districts with a current Certificate of Use and occupancy as a church or school. Under this Section of the Code, events are limited to two per calendar year not to exceed fifteen days per event. To allow for special events under this section, written waivers of objection are required from eighty percent of the property owners within five hundred feet of the proposed event. Ordinance 11-32 was intended to allow for greater flexibility for food truck special events while maintaining the requirement for written waivers of objection from adjacent property owners/residents.

Throughout the drafting of the two ordinances, representatives from the food truck industry were consulted through a series of meetings and email correspondence. Input received from the industry provided insight into the nature of food truck operations.

Food Truck Round-up Regulations: On May 17, 2011, the BCC adopted Ordinance 11-32 providing for food truck round-ups, subject to the following requirements:

- Food truck round-ups are permitted on properties in commercial, industrial and urban center zoning districts as well as GU districts where zoned for industrial or commercial use.
- Events are limited to one per week. Round-ups may operate until 10 PM on the weekdays and midnight on weekends, unless special times are approved through the site plan review. Events located in industrial areas where there are no residential areas located within 1,000 feet may operate until 1 a.m. on weekends. Up to four days per year, on a designated holiday, events may operate until midnight on a weekday, provided the dates are indicated on the CU application.
- Written waivers of objection must be obtained from 80% of residential property owners/tenants.
- Mobile operations may be located on vacant or improved property but may not be located on the public right-of-way.
- The sale of alcoholic beverages is prohibited.
- The ordinance applies to the unincorporated areas of Miami-Dade County.

Permitting Requirements:

Prior to applying for permitting through Miami-Dade County, food truck operators must obtain a Mobile Food Dispensing Vehicle license from the State of Florida Department of Business and Professional Regulation. As part of the approval, food trucks are required to comply with state regulations for sanitation and food safety.

Local Business Tax Receipt: Operators of a mobile food truck must obtain a local business tax receipt from the County. The fee for a local business tax receipt is \$100, renewable annually.

Certificate of Use: A Certificate of Use (CU) must be obtained from the Department of Regulatory and Economic Resources (DRER) to allow for a food truck operation. Both the food truck operator and the property owner must obtain a CU. The CU is valid for one year for the dates specified on the CU application. The application fee for the Certificate of Use and Zoning Inspection is \$293. This fee is assessed upon initial application and annually upon renewal. At the time of application, the food truck operator must submit a description of the business and proof that a Mobile Food Dispensing Vehicle license has been obtained from the State of Florida Department of Business and Professional Regulation.

Food Truck Round-Up Permitting: To allow for a food truck round-up, the designated coordinator must submit the following documents:

- A notarized letter from the property owner authorizing the round-up and authorizing the coordinator to pursue permits for the special event.

- Written waivers of objection from no less than 80% of property owners or residents within 1,000 feet of the proposed event. Unoccupied residences are excluded.
- A schedule of the events that will occur throughout the year.
- Sign-off from the Police Department
- A traffic safety and security plan
- A narrative describing the hours of operation, estimated attendance and a description of other installations that will be provided.
- Copies of state licenses for each food truck
- The maximum number of food trucks that will be permitted on the site.
- A site plan indicating:
 - General placement of the food trucks
 - Location of refuse facilities, sanitation facilities, on-site and off-site parking locations, lighting fixtures, internal access and circulation.

Permitting Activity and Outreach Efforts:

Since the adoption of Ordinance 11-32, only one permit has been obtained for a food truck round-up. The application allowed for a food truck round up on a 3.2-acre professional office site in the Palm Springs North area. The applicant indicated that the food truck event will be held in conjunction with a charitable event. One presumed reason for the limited number of permit applications is that the food truck round-ups have been occurring more frequently in public parks. Often times, these large parks are more adequately buffered from adjacent uses and are better equipped to handle large events. These venues are also better able to accommodate the large crowds associated with the food truck special events. Special events in parks are regulated through Administrative Orders 8-3 and 8-5 and are, therefore, not subject to the regulations of Ordinance 11-32. Many events are also occurring within the boundaries of municipalities, outside of the County's jurisdiction.

Since the adoption of Ordinance 11-92 which addresses individual mobile operations, nine permits have been obtained including seven permits for flower stands and two permits for food trucks. Ordinance 11-92 included an amnesty period that provided existing businesses six months to comply with the new regulations and obtain the required permits. During the amnesty period, which expired on May 23, 2012, staff embarked on an extensive outreach effort to inform existing mobile operations of the new regulations. To notify food truck operators of the new regulations, over 800 mailers with information in English and Spanish were sent to business owners with an occupational license as a lunch truck in Miami-Dade County. In addition, code enforcement staff distributed flyers with information in English, Spanish and Creole to businesses they encountered in the field that may be subject to the new regulations. A webpage was also established on the County's permitting website to provide prospective applicants with a summary of the regulations and the pertinent application forms. Additional information on the effectiveness of Ordinance 11-92 will be provided to the BCC in December, 2012.

Implementation Issues Identified:

In connection with this report, representatives of the industry were contacted to elicit feedback on any issues they have encountered in the permitting process or practical application of the food truck round-up provisions. The primary issue identified by the industry relates to difficulties encountered during the permitting process, primarily with the routing of information between the various review departments and unfamiliarity with the requirements for mobile operations. In response to this feedback, staff from the various review departments met to clarify the review procedures and implement protocol for better routing of information. The industry provided the following additional feedback for consideration during the reauthorization:

- Amend Ordinance 11-92 (individual mobile operations) to remove the requirement for each individual food truck to obtain a Certificate of Use. Instead, require proof of state license and insurance at the time of the Local Business Tax Receipt. Each property owner would still need to get a Certificate of Use that would ensure compliance with the regulations.

The Miami-Dade County Police Department was contacted in connection with this report. They were not aware of any police enforcement activity or citizen complaints regarding food truck special events. Police Department staff provided the following recommendation for consideration during reauthorization:

- Prohibit food trucks from operating within close proximity to nightclubs and package liquor stores.

Below is a summary of other issues identified either through implementation of the provisions or communication received from the public:

- Clarify the types of signage that can be provided in connection with a food truck round-up. Special events often provide temporary signage that may be inconsistent with the signage requirements of the underlying zoning district.
- Consider allowing the more stringent provision to prevail when a food truck use is located immediately adjacent to the boundary of a municipality that has more stringent regulations for food truck operations.
- Consider addressing food truck round-ups on public property in the unincorporated area and properties located in municipalities where the county retains jurisdiction over zoning issues such as Facilities of Countywide Significance.
- Clarify within the food truck round-up ordinance that public parks are exempt from the regulations since special events on these parks are regulated through administrative order.
- To provide consistency with Ordinance 11-92, allow food truck round-ups on sites in residential districts with a Certificate of Use for a school, church, museum or hospital.
- Clarify the number of consecutive days that the special event may operate on a given site.

Recommendation for Reauthorization:

Although there has been a limited number of permit applications over the last year, a review of the food truck event listing shows that interest in the events remains strong. It is recommended that the Board of County Commissioners reauthorize the provisions of Ordinance 11-32 to allow

for the continuation of the food truck special events. The provisions of the food truck round-up ordinance provide greater flexibility for food truck special events than is otherwise permitted by the Zoning Code. To address the implementation issues identified, it is recommended that the following amendments be considered in conjunction with the reauthorization of Ordinance 11-32:

- Limit the number of consecutive days that an event may operate to three.
- Clarify that events held in public parks are exempt from the provisions.
- Expand the districts where food truck round-ups are permitted to include residentially-zoned properties with occupancy as a school, church, museum or hospital.
- Require special event signage to comply with Section 33-99 of the Code.
- Develop standards for food trucks on public property.