

## San Bernardino County Food Trucks and Transient Vendors in the City of San Bernardino

Street cuisine seems to be the cuisine du jour. According to San Bernardino County Second District Supervisor [Janice Rutherford](#), mobile food trucks (other than at fixed events) are currently not allowed in the County of San Bernardino. The Rutherford Report (Newsletter), March 2011, Page 1.

When I was a Deputy City Attorney for the City of San Bernardino, mobile food vendors (except for vendors selling paletas, which were allowed) were a common Code Enforcement complaint. These ranged from people selling flowers at freeway off-ramps to people selling roasted corn out of coolers, almost uniformly with mayo as one of the condiments. I, along with other Deputy City Attorneys, prosecuted them under San Bernardino Municipal Code section 5.04.495. The section was amended in 2004 by the Common Council to prohibit a transient merchant with a “valid City of San Bernardino Business Registration Certificate or Permit” from staying “at any location not listed on their Business Registration Certificate or Permit for more than five (5) minutes in a twenty-four (24) hour period.” San Bernardino Municipal Code section 5.04.495(B).

Arguably, this section would prohibit a Gourmet Food Truck from operating in San Bernardino even with San Bernardino County Environmental Health Services clearance. Food trucks intending to operate in San Bernardino might seek to amend the Municipal Code to codify an exception for San Bernardino County Environmental Health Services-inspected truck. However, the public policy of Section 5.04.495 is codified in section (C): “This section is intended to make it unlawful for any person or persons to offer, create, possess items to sell, or commence to sell items at locations that have not been approved by the City, and to prohibit transient merchants/vendors and temporary businesses. The Mayor and Common Council find that transient merchants/vendors and temporary businesses at temporary locations cause blight; they unlawfully compete against lawful businesses without paying permit fees or taxes; they encourage people to unlawfully assemble; they threaten the public’s health and safety, public sanitation, and the public welfare; and they create a public nuisance.” While Mobile Food Trucks may not be the ad-hoc restaurants that operate on the streets of San Bernardino at nights, existing restaurants may object to them if the trucks take away paying customers.

The information you obtain from this document is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your individual situation.

April 4, 2011

Copyright 2011 [Michael Reiter, Attorney at Law](#)

Michael Reiter 1255 W. Colton Ave. Suite 104, Redlands, CA 92374 (909) 708-6055