



**CITY COUNCIL AGENDA**

**September 14, 2020**

**Regular meeting 6:30PM**

CITY COUNCIL CHAMBERS, CITY HALL  
 29592 ELLENSBURG AVE  
 GOLD BEACH OR 97444

*DUE TO THE CORONAVIRUS, THE COUNCIL MEETING WILL BE CONDUCTED VIA VIRTUAL MEANS. Zoom meeting info is attached to this agenda.*

**Call to order:**                      **Time:** \_\_\_\_\_

- 1. The pledge of allegiance**
- 2. Roll Call:**

Members	Present	Absent
Mayor Karl Popoff		
Council Position #1 Summer Matteson		
Council Position #2 Larry Brennan		
Council Position #3 Anthony Pagano		
<b>Council Position #4 Becky Campbell BEGINNING VOTE</b>		
Council Position #5 Tamie Kaufman		
City Administrator Jodi Fritts		

- 3. Special Orders of Business:**
  - a. PROCLAMATION: Suicide Awareness & Prevention + Action Month
  - b. September Preparedness Month

**4. Consent Calendar:**  
*None Scheduled*

**5. Citizens Comments**  
*As presented to the Mayor at the beginning of the meeting*

**6. Public Hearing**  
 a. Amending Local Public Contracting Rules

**7. Citizen Requested Agenda Items**  
*None Scheduled*

**8. Public Contracts and Purchasing**  
*None Scheduled*

*The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community*

- 9. **Ordinances & Resolutions**
  - a. Resolution R2021-07 Amending Public Contracting Rules
  
- 10. **Miscellaneous Items (including policy discussions and determinations)**
  - a. Continuation of Food Cart/Mobile Vendor discussion
  - b. 2020 slate of Council candidates
  - c. Councilor Concerns
  
- 11. **City Administrator’s Report**  
*To be presented at meeting*
  
- 12. **Mayor and Council Member Comments**
  - a. Mayor Karl Popoff
  - b. Councilors
    - 1) Summer Matteson
    - 2) Larry Brennan
    - 3) Anthony Pagano
    - 4) Becky Campbell
    - 5) Tamie Kaufman

- 13. **Citizens Comments**  
*As permitted by the Mayor*

- 14. **Executive Session**  
*No Executive Session Held*

The next regularly scheduled City Council meeting is the **Monday, October 5, 2020, at 6:30PM** in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.

- 15. **Adjourn**      **Time:** \_\_\_\_\_

*The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community*

September GB City Council Meeting

Time: Sep 14, 2020 06:30 PM Pacific Time (US and Canada)

**CLICKABLE LINK FOR COMPUTER, SMART PHONE, TABLET**

*(video or audio option)*

<https://us02web.zoom.us/j/9118850296>

Meeting ID: 911 885 0296

**To join just by phone audio:**

One tap mobile

+16699006833,,9118850296# US (San Jose)

+12532158782,,9118850296# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 911 885 0296

Find your local number: <https://us02web.zoom.us/j/9118850296>



# **SPECIAL ORDERS OF BUSINESS**



## **GOLD BEACH CITY COUNCIL AGENDA REPORT**

Agenda Item No. **3 a.**  
Council Meeting Date: September 14, 2020

**TITLE: Suicide Prevention & Awareness Month Proclamation**

**SUMMARY AND BACKGROUND:**

Gordon Clay, from The Citizens Who Care, made a request for the Mayor to Proclaim September Suicide Awareness & Prevention +Action Month in Gold Beach. Proclamation attached.

**PROCLAMATION**  
**Declaring September as Suicide**  
**Awareness & Prevention + Action Month**

- WHEREAS,** Suicidal thoughts can affect anyone regardless of age, gender, race, orientation, income level, religion, or background; and suicide is a major public health issue that requires vigilant attention and preventative action; and
- WHEREAS,** According to the CDCs most current published data, suicide was the leading cause of death for 15-44 year-old Oregonians<sup>1</sup>, and Curry County led the state (2011-2017) in per/capita suicides<sup>2</sup>; and
- WHEREAS,** 20% of Curry County 11th graders reported seriously considering attempting suicide and 9% actually attempted suicide last year; and
- WHEREAS,** Each death by suicide directly impacts numerous family members, friends, loved ones, and by extension the entire community; and
- WHEREAS,** Every member of our community should understand that throughout life's struggles we need the occasional reminder that we are all silently fighting our own battles, especially during this pandemic; and
- WHEREAS,** Reducing the stigma by discussing suicide and warning signs, promoting safe and responsible care of lethal means and increasing public awareness of the resources available for at-risk individuals, encourages help-seeking behaviors and helps attempt survivors and survivors of suicide loss in their personal healing; and
- WHEREAS,** It is important to recognize the connections that mental health conditions and substance use disorders have to suicide, as well as how other external factors, including harassment, bullying, discrimination and the availability of a firearm contribute; and
- WHEREAS,** Asking for help is a sign of real strength and the first step towards achieving mental wellness, particularly during this extended period of the COVID-19 pandemic.

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<sup>1</sup> SOURCE: <https://www.worldlifeexpectancy.com/oregon-cause-of-death-by-age-and-gender>

<sup>2</sup> SOURCE: <https://geo.maps.arcgis.com/apps/MapSeries/index.html?appid=a36646cf1098447db4c622e055be09bf>

NOW, THEREFORE, I Karl Popoff, Mayor of the City of Gold Beach, hereby declare and proclaim the month of September 2020 as SUICIDE AWARENESS AND PREVENTION + ACTION MONTH for the City of Gold Beach.

BE IT FURTHER RESOLVED that the City encourages all citizens to learn the warning signs, trust their gut, and use that information to ask a troubled friend, colleague or family member "R U OK?"

DATED this 14<sup>th</sup> day of September, 2020

Karl Popoff, Mayor

**#BeThe1To Ask.**

**Don't be afraid to ask the tough question.**

**When somebody you know is in emotional pain,  
ask them directly:**

**"Are you thinking about killing yourself?"**

Find out why this can save a life at [BeThe1To.com](https://www.betheto.com).  
If you're struggling, call the Lifeline at

**1-800-273-TALK (8255)**



Leading Causes of Death Reports, National, Regional and State (RESTRICTED), 1999 - 2018

**10 Leading Causes of Death, Oregon  
 2018, All Races, Both Sexes**

Rank	Age Groups										All Ages
	<1	1-4	5-9	10-14	15-24	25-34	35-44	45-54	55-64	65+	
1	Congenital Anomalies 32	Unintentional Injury 11	Unintentional Injury —	Suicide 13	Suicide 116	Unintentional Injury 209	Unintentional Injury 204	Malignant Neoplasms 453	Malignant Neoplasms 1,427	Malignant Neoplasms 6,084	Malignant Neoplasms 8,159
2	SIDS 27	Congenital Anomalies —	Congenital Anomalies —	Unintentional Injury —	Unintentional Injury 109	Suicide 135	Malignant Neoplasms 115	Heart Disease 205	Heart Disease 674	Heart Disease 5,824	Heart Disease 6,820
3	Short Gestation 20	Malignant Neoplasms —	Homicide —	Malignant Neoplasms —	Malignant Neoplasms 18	Malignant Neoplasms 52	Suicide 115	Unintentional Injury 205	Unintentional Injury 285	Alzheimer's Disease 1,853	Unintentional Injury 2,075
4	Maternal Pregnancy Comp. 16	Influenza & Pneumonia —	Benign Neoplasms —	Congenital Anomalies —	Homicide 15	Heart Disease 28	Heart Disease 76	Liver Disease 147	Liver Disease 229	Cerebrovascular 1,797	Cerebrovascular 2,024
5	Unintentional Injury 14	Meningitis —	Heart Disease —	Aortic Aneurysm —	Heart Disease —	Homicide 24	Liver Disease 38	Suicide 135	Chronic Low Respiratory Disease 207	Chronic Low Respiratory Disease 1,650	Chronic Low Respiratory Disease 1,919
6	Bacterial Sepsis —	Perinatal Period —	Malignant Neoplasms —	Benign Neoplasms —	Chronic Low Respiratory Disease —	Liver Disease 16	Diabetes Mellitus 31	Diabetes Mellitus 85	Diabetes Mellitus 202	Unintentional Injury 1,023	Alzheimer's Disease 1,868
7	Neonatal Hemorrhage —	—	—	Septicemia —	Congenital Anomalies —	Congenital Anomalies 11	Homicide 20	Cerebrovascular 48	Cerebrovascular 159	Diabetes Mellitus 897	Diabetes Mellitus 1,224
8	Placenta Cord Membranes —	—	—	—	Diabetes Mellitus —	Chronic Low Respiratory Disease —	Cerebrovascular 16	Chronic Low Respiratory Disease 46	Suicide 133	Hypertension 494	Suicide 844
9	Respiratory Distress —	—	—	—	Influenza & Pneumonia —	Diabetes Mellitus —	Hypertension —	Influenza & Pneumonia 27	Hypertension 81	Parkinson's Disease 468	Liver Disease 699
10	Four Tied —	—	—	—	Liver Disease —	Three Tied —	Influenza & Pneumonia —	Hypertension 21	Influenza & Pneumonia 55	Influenza & Pneumonia 430	Hypertension 607

WISQARS™

Note: For leading cause categories in this State-level chart, counts of less than 10 deaths have been suppressed (---).  
 Produced By: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention  
 Data Source: National Center for Health Statistics (NCHS), National Vital Statistics System



## **GOLD BEACH CITY COUNCIL AGENDA REPORT**

Agenda Item No. **3 b.**  
Council Meeting Date: September 14, 2020

### **TITLE: September Preparedness Month & Home Inventory Week**

#### **SUMMARY AND BACKGROUND:**

We received a letter from the state last month regarding National Preparedness Month (September) and declaring Home Inventory Week the first week of September. Unfortunately, we weren't able to make that first week, but in light of the recent state wildfire disasters it's an important topic. Attached is the letter from the state and info on Home Inventory Week and family/self preparedness.

Last year on Patriot's Day (September 11<sup>th</sup>) we hosted a preparedness event in the park with a demo of actual MREs (Meals Ready To Eat). We were not able to have an event this year due to COVID. We hope to be able to do an event next September.

#### **ACTION REQUESTED:**

**No action needed FYI only.**



# Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Director's Office

350 Winter Street NE, Room 200

PO Box 14480

Salem, OR 97309-0405

Voice: 503-378-4100

Fax: 503-378-6444

[www.dcbcs.oregon.gov](http://www.dcbcs.oregon.gov)

RECEIVED

AUG 17 2020

CITY OF GOLD BEACH

Dear Mayor and City Council,

Over the past five years, 10,000 wildfires have burned more than 2.5 million acres, and forced several thousand Oregonians to evacuate their homes. This year's wildfire season is far from over, which means the time to prepare is now.

September is National Preparedness Month, a time of year to get ready for all types of disasters. Fires, earthquakes, floods, tornadoes, and winter storms are just a few of the reasons to build an emergency kit and plan an escape route.

Those steps are essential to preparation, but two others are equally important and often overlooked – creating a home inventory and reviewing insurance coverage.

Having the right insurance coverage and an up-to-date home inventory are critical to financial resiliency. That importance is highlighted by the fact that National Preparedness Month is being kicked off with Home Inventory Week for the first week of September.

The Oregon Division of Financial Regulation invites you to join our efforts to help Oregonians protect their property and recover from disaster by declaring the first week of September as **Home Inventory Week**.

It is easy to get involved. Visit [dfr.oregon.gov/preparenow](http://dfr.oregon.gov/preparenow) to get a draft proclamation, promotional flyers, social media content, and other resources to help your neighbors and constituents prepare for the next disaster by building a home inventory and reviewing their insurance coverage.

If you have any questions about Home Inventory Week or need anything else, please contact our Outreach Coordinator Kevin Jeffries at [kevin.p.jeffries@oregon.gov](mailto:kevin.p.jeffries@oregon.gov) or 503-947-7238.

Sincerely,

Andrew R. Stolfi

Director and Insurance Commissioner

Oregon Department of Consumer and Business Services

# NATIONAL PREPAREDNESS MONTH



**Disasters Don't Wait.  
Make Your Plan Today**



**National Preparedness Month 2020**

**In 2018:**



**More than  
500,000 acres  
burned statewide**



**Nearly 4,000  
Oregonians  
evacuated from  
wildfires**



**Over 300  
earthquakes  
in Oregon**

**PREPARE NOW**

**LEARN HOW**

**Get ready at [dfr.oregon.gov/preparenow](https://dfr.oregon.gov/preparenow)**



**FEMA**



# Disasters Don't Wait. Make Your Plan Today.

## September is National Preparedness Month

The Division of Financial Regulation encourages all Oregonians to use the resources below to protect your property before disaster strikes.

### What would you do if you lost everything in an instant?

**National Preparedness Month** is designated to protecting your family and your property. One important way to do that is to protect your assets. The Oregon Division of Financial Regulation encourages Oregonians to do two simple tasks to save time, money, and stress when disaster strikes:

1. Build a home inventory
2. Review your insurance coverage

Watch this video to see how easy a home inventory is to build. This simple task will save time, money, and stress following a disaster.

Once your inventory is complete, contact your insurance company or agent to review your policies.

### 🏠 Task 1

#### Build your home inventory

Follow these easy steps to get started:

- **Step 1: Take photos of each room in your home.**  
Play close attention to what's on walls, in closets, and don't forget storage spaces.
- **Step 2: Write a brief description of each item.**  
Note the make, model, price, and other details that might help when filing a claim.

*Tip: Try to group similar items together when taking pictures.*

### Save time with the Home Inventory Apps!

Mobile apps can make creating your home inventory easier. Download mobile apps to start building your personal property list.



Here is a link to Apple Store® for Home Inventory  
Here is a link for the Google Play®, search for "Home Inventory"

### 🔍 Task 2

#### Review your coverage

- **Discuss your policies** with your insurance company or agent.
- **Make sure you have the right coverage** and know what to expect when you file a claim.

#### Not sure where to start?

Call our consumer advocates at 888-877-4894 (toll-free), or email [dfr.insurancehelp@oregon.gov](mailto:dfr.insurancehelp@oregon.gov).

🔥 Wildfires: Guard against losses

💰 Protect your finances from disaster

## 1. Get a Kit of emergency supplies.

Be prepared to improvise and use what you have on hand to make it on your own for **at least three days**, maybe longer. While there are many things that might make you more comfortable, think first about fresh water, food and clean air.

### Recommended Supplies to Include in a Basic Kit:

- ✓ **Water** one gallon per person per day, for drinking and sanitation
- ✓ **Non-perishable Food** at least a three-day supply
- ✓ Battery-powered or hand crank **radio** and a **NOAA Weather Radio** with tone alert and **extra batteries** for both
- ✓ **Flashlight** and **extra batteries**
- ✓ **First Aid kit**
- ✓ **Whistle** to signal for help
- ✓ **Filter mask** or cotton t-shirt, to help filter the air
- ✓ **Moist towelettes, garbage bags** and **plastic ties** for personal sanitation
- ✓ **Wrench** or **pliers** to turn off utilities
- ✓ **Manual can opener** if kit contains canned food
- ✓ **Plastic sheeting** and **duct tape** to shelter-in-place
- ✓ **Important Family Documents**
- ✓ **Items for unique family needs**, such as daily prescription medications, infant formula or diapers



**Consider two kits.** In one, put everything you will need to stay where you are and make it on your own. The other should be a lightweight, smaller version you can take with you if you have to get away.

## 2. Make a Plan for what you will do in an emergency.

Plan in advance what you will do in an emergency. Be prepared to assess the situation. Use common sense and whatever you have on hand to take care of yourself and your loved ones.

**Develop a Family Emergency Plan.** Your family may not be together when disaster strikes, so plan how you will contact one another and review what you will do in different situations. **Consider a plan where each family member calls, or e-mails, the same friend or relative in the event of an emergency.** It may be easier to make a long-distance phone call than to call across town, so an **out-of-town contact** may be in a better position to communicate among separated family members. Be sure each person knows the phone number and has coins or a prepaid phone card to call the emergency contact. You may have trouble getting through, or the phone system may be down altogether, but be patient. Depending on your circumstances and the nature of the attack, the first important decision is whether you stay put or get away. You should understand and plan for both possibilities. Use common sense and the information you are learning here to determine if there is immediate danger. **Watch television and listen to the radio for official instructions as they become available.**

**Create a Plan to Shelter-in-Place.** There are circumstances when staying put and creating a barrier between yourself and potentially contaminated air outside, a process known as sheltering-in-place and sealing the room can be a matter of survival. **If you see large amounts of debris in the air, or if local authorities say the air is badly contaminated, you may want to shelter-in-place and seal the room. Consider precutting plastic sheeting to seal windows, doors and air vents.** Each piece should be several inches larger than the space you want to cover so that you can duct tape it flat against the wall. Label each piece with the location of where it fits. Use all available information to assess the situation. Quickly bring your family and pets inside, lock doors, and close windows, air vents and replace dampers. Immediately turn off air conditioning, forced air heating systems, exhaust fans and clothes dryers. Take your emergency supplies and go into the room you have designated. Seal all windows, doors and vents. Understand that sealing the room is a temporary measure to create a barrier between you and contaminated air. Watch TV, listen to the radio or check the Internet for instructions from local emergency management officials.

**Create a Plan to Get Away.** Plan in advance how you will assemble your family and anticipate where you will go. **Choose several destinations in different directions** so you have options in an emergency. If you have a car, keep at least a half tank of gas in it at all times. **Become familiar with alternate routes as well as other means of transportation** out of your area. If you do not have a car, plan how you will leave if you have to. **Take your emergency supply kit**, unless you have reason to believe it is contaminated and lock the door behind you. Take pets with you if you are told to evacuate, however, if you are going to a public shelter, keep in mind they may not be allowed inside. If you believe the air may be contaminated, drive with your windows and vents closed and keep the air conditioning and heater turned off. Listen to the radio for instructions. Know Emergency Plans at school and work. **Talk to your children's schools and your employer about emergency plans.** Find out how they will communicate with families during an emergency. If you are an employer, be sure you have an emergency preparedness plan. Review and practice it with your employees. A community working together during an emergency also makes sense. **Talk to your neighbors about how you can work together.**

## 3. Be Informed about what might happen.

Some of the things you can do to prepare for the unexpected, such as assembling a supply kit and developing a family emergency plan, are the same for both a natural or manmade emergency. However there are significant differences among potential terrorist threats, such as biological, chemical, explosive, nuclear and radiological, which will impact the decisions you make and the actions you take. By beginning a process of learning about these specific threats, you are **preparing yourself** to react in an emergency. Go to **ready.gov** to learn more about potential terrorist threats and other emergencies or call **1-800-BE-READY** (1-800-237-3239) for a free brochure. Be prepared to adapt this information to your personal circumstances and make every effort to follow instructions received from authorities on the scene. Also learn about your community's local emergency plan. With these simple preparations, you can be ready for the unexpected.

## 4. Get Involved in preparing your community.

After preparing yourself and your family for possible emergencies, take the next step and get involved in preparing your community. Learn more about **Citizen Corps**, which actively involves citizens in making our communities and our nation safer, stronger and better prepared. We all have a role to play in keeping our hometowns secure from emergencies of all kinds. Citizen Corps works hard to help people prepare, train and volunteer in their communities. Go to **www.citizencorps.gov** for more information and to get involved.



## Additional Items to Consider Adding to an Emergency Supply Kit:

- Prescription medications and glasses
- Infant formula and diapers
- Pet food and extra water for your pet
- Important family documents such as copies of insurance policies, identification and bank account records in a waterproof, portable container
- Cash or traveler's checks and change
- Emergency reference material such as a first aid book or information from [www.ready.gov](http://www.ready.gov)
- Sleeping bag or warm blanket for each person. Consider additional bedding if you live in a cold-weather climate.
- Complete change of clothing including a long sleeved shirt, long pants and sturdy shoes. Consider additional clothing if you live in a cold-weather climate.
- Household chlorine bleach and medicine dropper – When diluted nine parts water to one part bleach, bleach can be used as a disinfectant. Or in an emergency, you can use it to treat water by using 16 drops of regular household liquid bleach per gallon of water. Do not use scented, color safe or bleaches with added cleaners.
- Fire Extinguisher
- Matches in a waterproof container
- Feminine supplies and personal hygiene items
- Mess kits, paper cups, plates and plastic utensils, paper towels
- Paper and pencil
- Books, games, puzzles or other activities for children



# Ready

Prepare. Plan. Stay Informed.®



# Emergency Supply List



# FEMA



## Recommended Items to Include in a Basic Emergency Supply Kit:

**Water, one gallon of water per person per day for at least three days, for drinking and sanitation**

**Food, at least a three-day supply of non-perishable food**

**Battery-powered or hand crank radio and a NOAA Weather Radio with tone alert and extra batteries for both**

**Flashlight and extra batteries**

**First aid kit**

**Whistle to signal for help**

**Dust mask, to help filter contaminated air and plastic sheeting and duct tape to shelter-in-place**

**Moist towelettes, garbage bags and plastic ties for personal sanitation**

**Wrench or pliers to turn off utilities**

**Can opener for food (if kit contains canned food)**

**Local maps**

Through its *Ready Campaign*, the Federal Emergency Management Agency educates and empowers Americans to take some simple steps to prepare for and respond to potential emergencies, including natural disasters and terrorist attacks. *Ready* asks individuals to do three key things: get an emergency supply kit, make a family emergency plan, and be informed about the different types of agencies that could occur and their appropriate responses.

All Americans should have some basic supplies on hand in order to survive for at least three days if an emergency occurs. Following is a listing of some basic items that every emergency supply kit should include. However, it is important that individuals review this list and consider where they live and the unique needs of their family in order to create an emergency supply kit that will meet these needs. Individuals should also consider having at least two emergency supply kits, one full kit at home and smaller portable kits in their workplace, vehicle or other places they spend time.

Ready 



**Federal Emergency Management Agency**  
Washington, DC 20472

SEPT 14, 2020 COUNCIL PACKET

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# **PUBLIC HEARING**



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## GOLD BEACH CITY COUNCIL AGENDA REPORT

Agenda Item No. 6. a.  
Council Meeting Date: September 14, 2020

### **TITLE: Public Hearing on Public Contracting Rules Update**

#### **PUBLIC HEARING SUMMARY AND BACKGROUND:**

ORS 279A.065(6)(b) requires public entities which adopt their own public contracting rules to review them each time the state modifies their rules. The purpose of the review is to determine whether local amendments are required to ensure statutory compliance. Our legal counsel has prepared the updates and provided the adopting resolution with findings. A public hearing is required prior to adoption of any update. Required notices were published in the Daily Journal of Commerce and in our local newspaper as directed by legal counsel.

#### **REQUESTED ACTION**

**Open the public hearing for comments. Discuss any comments received. Close the public hearing. If no significant issues are brought up in the public hearing a resolution to adopt the updated contracting rules is included in the Ordinances and Resolutions section of the agenda.**

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## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City of Gold Beach will hold a joint public hearing of its City Council and its Local Contract Review Board regarding adoption of amended Public Contracting Rules on the 14<sup>th</sup> day of September, 2020, at 6:30pm during the regular monthly City Council meeting. *(Please note: due to the COVID restrictions, the Council meeting will be held via Zoom virtual meeting. Info to join the virtual meeting will be available on the City's website: [www.goldbeachoregon.gov](http://www.goldbeachoregon.gov) when the Council packet is posted.)* The proposed Resolution will replace and update the City's current Public Contracting Rules and exemptions.

The public hearing will be held for the purpose of taking comments on the City's draft findings supporting the exemption of certain classes of special procurements and public improvement contracts from competitive bidding requirements.

To submit comments, or for additional information, please contact: Jodi Fritts: email: [jfritts@goldbeachoregon.gov](mailto:jfritts@goldbeachoregon.gov) or call City Hall: 541-247-7029.

PUBLISHED: *Daily Journal of Commerce*  
DATE: September 9, 2020

PUBLISHED: *Curry County Reporter*  
DATE: September 9, 2020

## RESOLUTION R2021-07

### **JOINT RESOLUTION OF THE CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD OPTING OUT OF THE ATTORNEY GENERAL'S MODEL PUBLIC CONTRACTING RULES AND AMENDING PUBLIC CONTRACTING RULES FOR THE CITY OF GOLD BEACH**

WHEREAS, it is the policy of the City of Gold Beach (City) that a sound and responsive public contracting system should allow impartial, meaningful, and open competition, preserving formal competitive selection as the standard for public contracts unless otherwise specifically exempted herein, by state law, or by subsequent ordinance or resolutions; and

WHEREAS, in 2011, the City opted out of the Public Contracting Model Rules adopted by the Attorney General under ORS subchapters 279A, 279B, and 279C set forth in Oregon Administrative Rules Chapter 137, Divisions 46, 47, 48 and 49 (the "Model Rules") and adopted its own rules; and

WHEREAS, the Public Contracting Code divides powers and duties for contracting into two categories: those that must be performed by the "Local Contract Review Board"; and those that must be performed by the "Contracting Agency"; and

WHEREAS, pursuant to ORS 279A.060, the City Council is the Local Contract Review Board for City and, as such, is authorized to act on all such matters on behalf of the City, adopt Public Contracting Rules, and establish procedures for amendment of such rules; and

WHEREAS, City recognizes it may exempt certain public improvement contracts or classes of such contracts under ORS 279C.335; and

WHEREAS, the City Council additionally requests that the City's Local Contract Review Board approve the classes of special procurements set forth in the attached rules, based upon the findings set forth in Exhibit A to this Resolution.

NOW, THEREFORE, it is resolved as follows:

1. The City Council (Council) is hereby designated to continue as the Local Contract Review Board of the City and shall have all of the rights, powers and authority necessary to carry out the provisions of Chapters 279A, 279B, and 279C (the "Public Contracting Code") and attached Rules. Except as otherwise provided in this Resolution, the definitions established in the attached Rules apply herein. The term "Contracting Agency" as used in the attached Rules includes Contracting Agency's chief administrative officer, his or her designee, or any other purchasing agent, as designated by City policy. Those individuals are hereby designated as City's Contracting Agency and may exercise all authorities, powers and duties granted to a Contracting Agency

under the Public Contracting Code and attached Rules, unless otherwise established by City policy.

2. The above recitals and Exhibit A are hereby adopted by the Council, sitting as the Local Contract Review Board, as findings of fact supporting approval of the Council's request for classes of special procurement and public improvement contract exemptions.

3. The Model Rules adopted by the Attorney General pursuant to ORS 279A.065, including those effective January 1, 2020, do not apply to City. Instead, the City hereby prescribes the following Rules, which include portions of the Attorney General's Model Rules, as the Rules of Procedure that the City will use for its public contracting: Public Contracting Rules Chapter 137, Divisions 46, 47, 48 and 49. While the numbering of these Rules reflects the numbering system of the Attorney General's Model Rules, they incorporate City changes to the Model Rules, and, therefore, are not the Attorney General's promulgated administrative rules. City exemptions are also set forth in these Rules, as numbered Exemptions 1 through 18 (E-1 through E-18). All above-referenced Rules are attached to this Resolution as Exhibit B, and incorporated herein by this reference.

4. In accordance with ORS 279A.065(6)(b), the City shall review its Public Contracting Rules, adopted herein, each time the Attorney General modifies its Model Rules in order to determine whether amendments are required to ensure statutory compliance.

5. Amendments to these Rules and new rules shall be adopted in accordance with this Resolution and the Public Contracting Code. Special procurement requests and approvals shall be made in accordance with Division 47 of the attached Rules and ORS 279B.085. Public improvement contract exemption procedures, including notice and public hearing requirements, shall be made in accordance with Division 49 of the attached Rules and ORS 279C.335.

6. The Model Cost Accounting Guidelines developed by the Oregon Department of Administrative Services pursuant to Section 3, Chapter 869, Oregon Laws 1979 are hereby adopted as the City's Cost Accounting System to apply to public improvement projects exceeding \$5,000 and constructed with City's own equipment or personnel. ORS 279C.310. For such public improvement projects estimated to cost more than \$200,000, or for certain road maintenance projects exceeding \$125,000, City shall also comply with the requirements of ORS 279C.305.

7. All previously adopted resolutions, including Resolutions R1415-15, and R1112-35, establishing public contracting rules for City are hereby repealed.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Gold Beach City Council hereby amends the Public Contracting Rules and adopts the findings attached as EXHIBIT A.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 14<sup>th</sup> DAY OF SEPTEMBER 2020.

\_\_\_\_\_  
Karl Popoff, Mayor  
City Council

\_\_\_\_\_  
Karl Popoff, Mayor, as President,  
for the Local Contract Review Board

ATTEST:

ATTEST:

\_\_\_\_\_  
Jodi Fritts,  
City Administrator

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Jodi Fritts, City Administrator,  
as Secretary for the  
Local Contract Review Board

## EXHIBIT A

### FINDINGS IN SUPPORT OF RESOLUTION R2021-07 ADOPTING PUBLIC CONTRACTING CODE RULES

ORS 279B.085 and 279C.335 authorize the City of Gold Beach's (City) City Council, sitting as City's local contract review board, to approve findings submitted and exemptions requested by City Council upon adoption of appropriate findings, to establish special selection, evaluation and award procedures for, or exempt from competition, the award of a specific contract or classes of contracts.

Pursuant to that authority, the Council makes the following findings in support of Resolution R2021-07, which establishes exempt classes of contracts and the solicitation methods for their award:

#### **No Findings Required**

Pursuant to ORS 279A.025 and 279A.055, the Council is not required to adopt findings with respect to the solicitation methods and awards of the following classes of contracts identified in City's Public Contracting Rules 2020, Class Exemptions:

E-4	Contracts for Price Regulated Items
E-6	Investment Contracts
E-12	Insurance, Employee Benefit
E-17	Personal Service Contracts
E-18	Liability Insurance Contracts

The above Rules govern subjects specifically authorized by state law and, therefore, require no local exemption.

#### **Specific Findings for Public Improvement Class Exemption**

The Council approves the following specific findings for the use of Request for Proposal alternative contracting method for public improvement contracts estimated to cost over \$100,000 and also finds that the establishment of this class of contracts and the method approved for their award:

1. Is unlikely to encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; and
2. The awarding of public improvement contracts under each exemption will result in substantial cost savings to City.

These conclusions are based on the following general findings:

- A. Operational, budget, and financial data. Where various criteria, which may or may not include cost, must be weighed in order to select an appropriate contractor for the desired project, the formal competitive bidding process costs of up to \$7,000 are a significant budgetary waste in that the most qualified contractor for the project may not be the lowest responsible bidder;
- B. Public benefits. Exempting contracts from competitive bidding requirements and instead utilizing statutory competitive proposal procedures will protect and preserve public funds, enable greater competition between the most qualified contractors, and result in a better product which meets the public's and City's needs;
- C. Value engineering, Specialized expertise required, Technical complexity. Only through a competitive proposal process can City weigh, evaluate and select the type of expertise needed to address the technical complexities of a particular public improvement project. Competitive proposal allow the City to determine which contractor may best provide such services. These are qualities not reflected in cost, where a determination on cost alone could forfeit these valuable and essential attributes;
- D. Public safety. Utilizing a competitive proposal process as opposed to competitive bidding can ensure high quality, more safely constructed facilities through the construction period, and after completion. Capitalizing upon design and construction planning and compatibility can also allow earlier use of public facilities even while construction continues;
- E. Market conditions. The increased availability of and need for technical expertise, value engineering, or other types of specialized expertise, as well as a need to investigate the compatibility, experience and availability of contractors require that certain public improvement contracts be awarded based upon an evaluation of a number of criteria, rather than simply cost.

**Specific Findings for Special Classes and Methods of Award for Contracts Other Than Public Improvements.**

The Council approves the specific findings for the establishment of special solicitation methods for the classes of public contracts described below and also finds that the establishment of each class of contracts and methods approved for their award:

1. Is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because such exemptions still require alternative contracting procedures, ensuring:

- (1) reasonable competition; (2) the best contract price for the public; and (3) a cost-effective process for both contractors and City;
2. The awarding of public contracts under these exemptions will result in substantial cost savings to City because City will avoid costs associated with unnecessary documentation and procedures, where it is unmerited by the type and/or relatively low cost of the contracts; and
  3. The awarding of public contracts pursuant to any of the requested exemptions substantially promotes the public interest in a manner that could not practicably be realized by formal competitive solicitation procedures, given the fact that such exemptions facilitate smooth operation of City's administration and operations, include procedures and mechanisms to ensure the best product, service or outcome is obtained at the least cost to the public and City, and identified classes address areas of public contracting left unresolved by state statute which are essential for City's operations, such as awarding personal service contracts, purchasing used personal property, and disposing of surplus personal property.

Specifically, the Council finds:

## **E-2 – Advertising Contracts.**

**Alternate Award Process.** In City's discretion. The process selected may be competitive or non-competitive.

**Cost Savings and Other Benefits.** Size of and frequency of average advertisement (including all notices required to be published by City) does not justify the cost of solicitation. Period of time from recognition of need to advertise until advertising date is too short to issue solicitation.

**Effect on Competition.** The potential market is limited because not all advertisers work in every market. Choice of advertising medium is somewhat price sensitive, but primarily driven by location and size of circulation in comparison with City's target audience.

**No Favoritism.** Not applicable due to the lack of competitors and specialized contracting needs.

## **E-3 – Equipment Repair and Overhaul.**

**Alternate Award Process.** As needed, in City's discretion.

**Cost Savings and Other Benefits.**

1. Pre-contract pricing is difficult to obtain and cannot be relied upon.

2. City has discretion to decide whether costs of solicitation are justified in relationship to size of contract and availability of skilled technicians to repair the specific equipment.
3. Delay required for solicitation would impair City's ability to respond to equipment breakdown and be injurious to the public interest.
4. Experience with contractor is crucial because reliability over the course of several projects is important.

**Effect on Competition.** Allows contractor to be selected based on ability to provide accurate, reliable and fast service.

**Effect on Favoritism.** Favoritism will not be greater than if statutory request for proposals process is used.

#### **E-5 - Copyrighted Materials.**

**Alternate Award Process.** As needed, in City's discretion.

**Cost Savings and Other Benefits.** Necessary to allow City to acquire special needs products that are unique.

**Effect on Competition.** None. There is no competitive market for a unique product. Copyrighted materials are generally acquired from a sole-source copyright holder, as used property, or by donation.

**No Favoritism.** Not applicable due to the lack of competitors and specialized contracting needs.

#### **E-7 – Requirements Contracts.**

**Alternate Award Process.** Original contract must be based on a competitive process.

**Cost Savings and Other Benefits.** Size and frequency of procurements does not justify the cost of solicitation. Period of time from recognition of need until good or service required too short to issue solicitation.

**Effect on Competition.** Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years.

**Effect on Favoritism.** Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years.

## **E-8 – Office Copier Purchases.**

**Alternate Award Process.** Original contract must be based on a competitive process.

**Cost Savings and Other Benefits.** Size and frequency of procurements does not justify the cost of solicitation. Period of time from recognition of need until good or service required too short to issue solicitation.

**Effect on Competition.** Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years. In addition, rule requires evaluation and award based upon multiple factors, not just cost.

**Effect on Favoritism.** Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years. In addition, rule requires evaluation and award based upon set factors, in addition to cost.

**Other Factors.** Allows Contracting Agency to address emergency circumstances. Cannot anticipate when immediate replacement or repairs will be needed to ensure normal operations.

## **E-9 - Manufacturer Direct Supplies.**

**Alternate Award Process.** Subject to cost saving analysis.

**Cost Savings and Other Benefits.** Allowed only after a formal solicitation is completed and manufacturer's price is less than offers received. Cost of formal solicitation, therefore not merited.

**Effect on Competition.** None. Allowed only after assessment of manufacturer's costs to distributor within the same pool of potential contractors that would be qualified to respond to an invitation to bid.

**Effect on Favoritism.** None. Allowed only after assessment of manufacturer's costs to distributor within the same pool of potential contractors that would be qualified to respond to an invitation to bid.

**Other Factors.** Allowed on a contract-by-contract basis and shall not result in an ongoing price agreement, further fostering competition.

## **E-10 – Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalt.**

**Alternate Award Process.** Intermediate procurement process.

**Cost Savings and Other Benefits.** Frequency and amount of exempt item purchases do not justify the cost of solicitation. Period of time from recognition of need through contract award too long for needed purchases of exempt fungible goods.

**Effect on Competition.** Minimal. Intermediate procurement process surveys market and ensures level of competition appropriate for these frequently purchased goods.

**Effect on Favoritism.** Purchase based on cost. Intermediate procurement process sufficiently avoids any favoritism.

### **E-11 – Hazardous Material Removal; Oil Cleanup.**

**Alternate Award Process.** Rule encourages competitive procedures to the extent reasonable under the circumstances.

**Cost Savings and Other Benefits.** Avoids unnecessary cost and delay associated with procurement procedures when most qualified available contractor required for immediate performance. Primary consideration is public safety and compliance with hazardous material laws.

**Effect on Competition.** Minimal, given competitive procedures encouraged by Rule and supporting findings describing circumstance requiring clean up.

**Effect on Favoritism.** Minimal, given competitive procedures encouraged by Rule and supporting findings describing circumstance requiring clean up.

**Other Factors.** Exemption necessary to ensure City's ability to comply with State law governing hazardous materials.

### **E-13 – Medical and Laboratory Supplies.**

**Alternate Award Process.** Direct award to different vendors allowed, following initial competitive solicitation process.

**Cost Savings and Other Benefits.** Frequency and amount of exempt item purchases do not justify the cost of solicitation. Period of time from recognition of need through contract award too long for needed purchases of exempt fungible goods.

**Effect on Competition.** Minimal. Intermediate procurement process surveys market and ensures level of competition appropriate for these frequently purchased goods.

**Effect on Favoritism.** Purchase based on cost. Intermediate procurement process sufficiently avoids any favoritism.

#### **E-14 – Concession Agreements.**

**Alternate Award Process.** When in City's best interest, a competitive proposal solicitation will be used.

**Cost Savings and Other Benefits.** Allows City to take advantage of unique revenue opportunities.

**Effect on Competition.** Responds to unique opportunities for which the number of competitors may range from none to many.

**Effect on Favoritism.** No impact. Responds to unique opportunities.

**Other Factors.** Not a contract for the acquisition or disposal of goods, or services or public improvements. Most similar to personal services contract because the quality of the concession may be more important than price factors. Variation in types and sizes of concession opportunities is too great to provide a single method of solicitation. Statutory public contracting requirements may not apply. May not be a public contract. Most similar to personal services contract. Findings may not be required.

#### **E-15 – Used Personal Property, Purchase of.**

**Alternate Award Process.** Rule requires individualized ORS 279B.085 findings and an intermediate procurement process, where feasible.

**Cost Savings and Other Benefits.** Allows City to take advantage of unique opportunity to require needed goods and services for discounted prices.

**Effect on Competition.** No impact. Responds to unique opportunities.

**Effect on Favoritism.** No impact. Responds to unique opportunities.

#### **E-16 – Surplus Personal Property, Disposition of.**

**Alternate Award Process.** Any means in City's best interest, after making individualized ORS 279B.085 findings. Items with a residual value of more than \$10,000 require local contract review board prior authorization.

**Cost Savings and Other Benefits.**

1. Avoids unnecessary solicitation expense by allowing City to determine whether cost of solicitation is justified by value of surplus property.
2. Allows City to establish programs for donation to charitable organizations.

**Effect on Competition.** No impact. Responds to unique opportunities.

**Effect on Favoritism.** No impact. Responds to unique opportunities.

**Other Factors.** Variations in the type, quantity, quality and opportunities for recycling of surplus property are too large to have this class of contracts governed by a single solicitation method.



# **ORDINANCES & RESOLUTIONS**



## GOLD BEACH CITY COUNCIL AGENDA REPORT

Agenda Item No. 9. a.  
Council Meeting Date: September 14, 2020

**TITLE: Resolution R2021-07 amending local Public Contracting Rules**

**RESOLUTION SUMMARY AND BACKGROUND:**

Resolution amending the City's Local Public Contracting Rules. A public hearing was held earlier in the agenda. *(The resolution and findings can be found in the Section 6 – Public Hearing part of the agenda packet)*

**SUGGESTED MOTION: I make the motion to adopt Resolution R2021-07, JOINT RESOLUTION OF THE CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD OPTING OUT OF THE ATTORNEY GENERAL'S MODEL PUBLIC CONTRACTING RULES AND AMENDING PUBLIC CONTRACTING RULES FOR THE CITY OF GOLD BEACH**



# **MISC. ITEMS**

**(Including policy discussions and determinations)**



**SECTION 10. MISC ITEMS** (including policy discussions & determinations)

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## **GOLD BEACH CITY COUNCIL AGENDA REPORT**

Agenda Item No. **10. a.**

Council Meeting Date: September 14, 2020

### **TITLE: Continuation of Discussion: Food Cart/Mobile Vendor Regulations**

#### **SUMMARY AND BACKGROUND:**

In July, the Council adopted Resolution R2021-03 which placed a moratorium on new food cart/mobile vendors adjacent to Ellensburg Avenue until the Council had time to develop and adopt specific regulations for their use. Staff was also directed to prepare potential code amendments related to food cart/mobile vendors for Council consideration. During this process staff has discovered A LOT of information regarding food carts.

In sifting through the better nuggets staff felt it would be best to have the Council review some of the information and make some policy calls before staff can effectively write potential amendments. After digging deeper into this subject, it became apparent that there is a lot more to consider than what the initial conversations started with. Staff would like the Council to discuss and decide what exactly the City concerns are related to food carts within the City, and what issues good/bad need to be addressed through possible City regulations? In other words: what is the specific “problem(s)” we want/need to address and then we can better utilize the mined data to address those concerns/problems without having to reinvent the wheel ourselves.

Staff has whittled down the info to the attachment list below. It is still A LOT of info, but good perspectives from all angles--so valuable info to consider. I tried not to provide an avalanche of data to review, but it is admittedly quite a bit. What would be useful is if the Council could review this info and pull out of it the bits you like/don't like, and we can use those as the discussion foundations.

#### **ATTACHED TO THIS REPORT:**

- Resolution R2021-03 the moratorium resolution - Councilors Matteson and Campbell would also like to discuss the finer details of this resolution as it relates to the fairgrounds and possibly other properties along Ellensburg.
- Oregon Health Authority (OHA) mobile unit guidelines – Curry County issues the food licensing permit for mobile vendors within the City. Their permits are supposed to be tied to these OHA rules. *(NOTE: After reading the OHA rules staff has concerns that at least one of the current mobile vendors does NOT meet these OHA guidelines and*



## SECTION 10. MISC ITEMS (including policy discussions & determinations)

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*therefore should not have been issued a permit to operate. Staff will be contacting the Health Department to discuss these concerns with their agency.)*

- Info from 3 Oregon cities regarding their food cart regulations: Lincoln City, Eugene, and Portland (*staff realizes Eugene and Portland are obviously much larger than us, but their info sheets and some of their rules are worth discussing*)
- National League of Cities Food Truck Report – lots of good info they dug up and put together to help prevent reinventing the wheel.
- A portion of the 353(!) page APA Regulating Food Trucks packet. Again, lots of work already done by others. I did not include the full 353 pages, but here is the link if you want to see the entire document (*much of it is copies of cities regulations—Washington DC has over 80 pages!*)  
<https://planning-org-uploaded-media.s3.amazonaws.com/document/open-EIP36.pdf>
- Institute for Justice Food Truck Freedom report along with a copy of a letter they submitted to the City of San Diego during a planning process for food truck regulation. (*Their concerns are worth noting. This is from their website: “I litigates to limit the size and scope of government power and to ensure that all Americans have the right to control their own destinies as free and responsible members of society.”*)

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### **PRIOR AGENDA REPORTS ON THIS TOPIC:**

#### **FROM JULY AGENDA REPORT**

*Staff brought this topic back up at the June meeting (see below). At that meeting the Council decided to prohibit any new food carts/mobile food vendors along Hwy 101 until the Council has adopted specific Code amendments to address the businesses. Staff was requested to prepare a resolution formalizing that decision.*

#### **FROM JUNE AGENDA REPORT**

***TITLE: Revisit Food Cart Regulation Discussion***

#### **SUMMARY AND BACKGROUND:**

*This is a Heads-Up notice only, for the July meeting staff would like to revisit the Food Cart regulation discussion that began last year. Staff have concerns about unregulated placement, sanitation, and quasi-structural issues that relate to fire/life safety codes. A few business owners have also brought specific concerns to staff that they would like to present to the Council. Hopefully in July we can meet in person with the public present so they can address the Council.*



## GOLD BEACH CITY COUNCIL AGENDA REPORT

Agenda Item No. 9. d.  
Council Meeting Date: July 6, 2020

### **TITLE: Resolution R2021-03 Moratorium on Food Cart/Mobile Food Vendors within Ellensburg Ave (Hwy 101) Corridor**

**SUMMARY AND BACKGROUND:**

Staff brought this topic back up at the June meeting (see below). At that meeting the Council decided to prohibit any new food carts/mobile food vendors along Hwy 101 until the Council has adopted specific Code amendments to address the businesses. Staff was requested to prepare a resolution formalizing that decision.

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**FROM JUNE AGENDA REPORT**

**TITLE: Revisit Food Cart Regulation Discussion**

**SUMMARY AND BACKGROUND:**

*This is a Heads-Up notice only, for the July meeting staff would like to revisit the Food Cart regulation discussion that began last year. Staff have concerns about unregulated placement, sanitation, and quasi-structural issues that relate to fire/life safety codes. A few business owners have also brought specific concerns to staff that they would like to present to the Council. Hopefully in July we can meet in person with the public present so they can address the Council.*

## RESOLUTION R2021-03

### A RESOLUTION DECLARING A TEMPORARY MORATORIUM ON ISSUING NEW BUSINESS LICENSES AND PLANNING AND PUBLIC WORKS AUTHORIZATION TO OPERATE A FOOD CART/MOBILE FOOD VENDOR BUSINESSES WITHIN THE ELLENSBURG AVENUE CORRIDOR

**WHEREAS:** The City adopted an Urban Renewal Plan and District in 2013 to address blight within the City; and

**WHEREAS:** The community of Gold Beach initiated participation in the statewide Main Street Program in 2016; and

**WHEREAS:** The City Urban Renewal Agency and Gold Beach Main Street have a shared goal of enhancing and rehabilitating the properties and businesses located within the Ellensburg Avenue corridor throughout town; and

**WHEREAS:** The City's current Zoning Code does not specifically address food carts/mobile food vendor businesses and the Council is desirous to develop a comprehensive section of the Zoning Code to address all issues related to food cart/mobile food vendor businesses including, but not exclusively: proper sanitation and compliance with FOG requirements, ensuring compliance with building code fire/life safety provisions, adequate parking, ensuring adequate public health inspections and compliance; and

**WHEREAS:** At the May 4, 2020, City Council meeting the Council voted to institute a moratorium on any new food cart/mobile food vendor business within the Ellensburg Avenue (Hwy 101) corridor until such time as the City amends the Zoning Code with specific language to address this type of business; and

**WHEREAS:** The Council wishes to address this topic as soon as possible and directs Administration and Planning staff to begin the process of developing potential Zoning Code amendments for the Council to review by the September 7, 2020, regular Council meeting.

**NOW THEREFORE, BE IT RESOLVED:** the City Council of the City of Gold Beach hereby prohibits any new food cart/mobile food vendor business to be located within the Ellensburg Avenue (Hwy 101) corridor until the Council amends the Zoning Code to address this specific type of business. Food cart/mobile food vendor businesses may be permitted to be located outside of Ellensburg Avenue corridor subject to compliance with

other City Code requirements. Administration, Planning, and Public Works staff will ensure compliance with City Codes.

**PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY,  
STATE OF OREGON, and EFFECTIVE THIS 6<sup>th</sup> DAY OF JULY, 2020.**

APPROVED BY:

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Karl Popoff, Mayor

ATTEST:

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Jodi Fritts, City Administrator/City Recorder



**Oregon Health Authority  
Food, Pool & Lodging, Health and Safety Program**

## **MOBILE FOOD UNIT OPERATION GUIDE**

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### Guidelines for Food Service

# Mobile Food Unit Operation Guide

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## QUESTIONS?

**Contact your county health department for information on licensing your mobile unit:**

<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/LOCALHEALTHDEPARTMENTRESOURCES/Pages/lhd.aspx>

Oregon Health Authority  
Foodborne Illness Prevention Program  
800 NE Oregon Street, Suite 640  
Portland, OR 97232

[www.healthoregon.org/foodsafety](http://www.healthoregon.org/foodsafety)

Rev 2/2020

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# Mobile Food Unit Operation Guide

## A summary of the Food Sanitation Rules relating to mobile food units

**T**he Mobile Food Unit Operational Guide is intended to help you set up and operate your mobile food unit in a sanitary and safe manner. By focusing on critical food safety practices, you will reduce the possibility of foodborne illness. While this document contains some detailed information about the rules for the construction and operation of mobile food units, it does not contain all the requirements for your unit. Unless otherwise noted, sections of the Food Sanitation Rules, Oregon Administrative Rules (OAR) 333-150-0000 are provided for you to obtain specific rule requirements. The Oregon Food Sanitation Rules [www.healthoregon.org/foodsafety](http://www.healthoregon.org/foodsafety).

### Licensing Your Mobile Food Unit

**A license is required.** Before a Mobile Food Unit is licensed, it must go through a plan review with the local Environmental Health Department. Prior to licensing, there may be other agencies from which you will be required to obtain approvals. These include, but are not limited to planning (zoning), Fire Marshall, and other city or county authorities. Oregon law requires that all food service activities open to the public be licensed PRIOR to operation.

**Maintain the unit as approved.** Mobile food units must be maintained and operated as originally designed and approved. Units that have been modified without approval must revert to the approved design and operation. If a mobile unit operates in a county other than where it is licensed, the operator is required to notify the health department in the county where it has moved prior to operating.

## County Health Departments

**Contact your county health department** early in your planning process. Determine what county you will be operating your mobile unit. The county's environmental health program contact information can also be found at this website or in the table below: <https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/LOCALHEALTHDEPARTMENTRESOURCES/Pages/lhd.aspx>

Baker	541-473-5186	Lake	541-947-6045
Benton	541-766-6841	Lane	541-682-4480
Clackamas	503-655-8384	Lincoln	541-265-4127
Clatsop	503-325-8500	Linn	541-967-3821
Columbia	503-397-7210	Malheur	541-473-5186
Coos	541-266-6720	Marion	503-588-5346
Crook	541-447-8155	Morrow	541-278-6394
Curry	541-425-7545	Multnomah	503-988-3400
Deschutes	541-322-7400	Polk	503-623-9237
Douglas	541-440-3574	Sherman-NCPH	541-506-2753
Gilliam-NCPH	541-506-2753	Tillamook	503-842-3943
Grant	541-620-0965	Umatilla	541-278-6394
Harney	541-620-0965	Union	541-962-8818
Hood River	541-387-6885	Wallowa	971-673-0442
Jackson	541-774-8206	Wasco-NCPH	541-506-2753
Jefferson	541-475-4456	Washington	503-846-8722
Josephine	541-474-5325	Wheeler	541-620-0965
Klamath	541-883-1122	Yamhill	503-434-7525

## What is a Mobile Food Unit?

A mobile food unit is any vehicle that is self-propelled, or can be pulled or pushed down a sidewalk, street, highway or waterway. Food may be prepared or processed on this vehicle, and the vehicle is used to sell and dispense food to the ultimate consumer. Mobile food units must be secured and protected from contamination when not in operation. Mobile food units have no size limit, but they must meet the following requirements:

**Wheels:** Mobile units must be mobile at all times during operation. The unit must be on wheels that are functional and appropriate for the type of unit at all times.

**Designed in One Piece:** Mobile food units must be designed and constructed to move as a single piece. Mobile units may not be designed to be assembled at the operating location.  
333-162-0020

**Integral:** The unit and all operations and equipment must be integral to the unit. This does not preclude the use of one outdoor cooking unit such as a BBQ with a Class IV unit.

**Water and Sewer Capacity:** Potable water tanks must be designed to be accessible and translucent to determine cleanliness and cleaned at least every 6 months. The tanks must

accommodate the amount of water needed for the operation of the unit including at least 30 gallons for dishwashing, 5 gallons for handwashing, and additional gallonage needed for food preparation and cleaning. The waste tank must be a minimum of 15% greater than the freshwater tank. A mobile food unit may connect to water and sewer if it is available at the operating location. If the unit cannot connect directly to the sewer, then the unit may not connect to the public water system. The water and sewer tanks may not be removed from the unit even if water and sewer are available. 5-305.11

**Water Pressure:** All sinks must provide water under pressure of a least 20 PSI or provide for a continuous flow of water. Gravity fed is not allowed.

## **How is a Mobile Food Unit Classified?**

There are four types of mobile food units. The mobile food unit classifications are based on the menu. A mobile food unit can serve menu items within its classification number or below (see Table 1). For example, a Class III unit may also sell items allowed under Class II and I.

- Class I** These units can serve only intact, packaged foods and non-potentially hazardous beverages. No preparation or assembly of foods or beverages may take place on the unit. Non-potentially hazardous beverages may be provided from covered urns or dispenser heads only. No dispensed ice is allowed.
  
- Class II** These units may serve foods allowed under Class I and provide hot and cold holding display areas from which unpackaged foods are displayed. Self-service by customers of unpackaged food is not allowed. Preparation, assembly or cooking of foods is not allowed on this unit.
  
- Class III** These units may serve any food item allowed under Class II, and may cook, prepare and assemble food items on the unit. However, cooking of raw animal food on the unit is not allowed.
  
- Class IV** These mobile food units may serve a full menu.

**Table 1: Mobile Food Unit General Requirements and Limitations**

<b>Requirements</b>	<b>Class I</b>	<b>Class II</b>	<b>Class III</b>	<b>Class IV</b>
Water Supply Required	No	Yes	Yes	Yes
Handwashing System Required	No	Yes <sup>1</sup>	Yes <sup>1</sup>	Yes <sup>1</sup>
Dishwashing Sinks Required	No	Yes – Or Licensed Commissary <sup>2</sup>	Yes – Or Licensed Commissary <sup>2</sup>	Yes <sup>2</sup>
Assembly or Preparation Allowed	No	No	Yes	Yes
Cooking Allowed	No	No	Yes <sup>3</sup>	Yes
Off-Unit Cooking Operation Allowed	No	No	No	Yes
Restroom Required	Yes	Yes	Yes	Yes
Examples	Prepackaged Sandwiches/ Dispensed Soda	Service of Unpackaged Food Items	Espresso/ Hot Dogs	No Menu Limitation

<sup>1</sup>The handwashing system must be plumbed to provide hot and cold or tempered running water and a minimum of 5 gallons of water must be dedicated for handwashing.

<sup>2</sup>If provided, must have a minimum of 30 gallons of water for dishwashing or twice the capacity of the three compartment sinks, whichever is greater.

<sup>3</sup>May only cook foods that are not potentially hazardous when raw (rice, pasta, etc.). Animal foods must be pre-cooked.

## **Base of Operation**

**Base of Operation** Mobile food units must operate from a base of operation or be fully self-contained. The regulatory authority will determine whether self-contained mobile food units have the ability to operate without a base of operation. To do so, the units must contain all the equipment and utensils that a commissary would provide. A mobile food unit may not serve as a commissary for another mobile food unit.

## Activities Allowed Outside of the Unit

All operations and equipment must be an integral part of the mobile food unit, unless your proposed activity meets one of the three exceptions and specific conditions are met. The three exceptions are the use of a cooking unit, customer seating, and auxiliary storage.

### **Cooking Unit**      **Cooking Unit:**

Class IV mobile food units may use **one** cooking unit, such as a BBQ or pizza oven that is not integral to the unit. The cooking unit **may not** be a flat top grill, griddle, wok, steamtable, stovetop, oven or similar cooking device. The cooking unit must be able to move with the unit.

A Class IV mobile food unit may use a cooking unit when:

- It is in close proximity to the mobile food unit
- It is used only for cooking. Processing, portioning, preparation, or assembly of food must be conducted from inside the mobile food unit
- A handwashing system must be provided adjacent to the cooking unit.

### **Seating for Customers**

Operators may provide seating for customers if restrooms are readily accessible within 500 feet of the mobile food unit 6-402.11 The restroom must have a handwashing facility that provides hot and cold running water, soap, and paper towels or air dryer.

When seating is provided, mobile food units must provide a garbage container for customers.

### **Shelves, Tables and Off-Unit Display**

Shelves or tables that are integral to the unit may be used to display non-potentially hazardous condiments and customer single-use articles such as napkins and plastic utensils. Mobile food units may display commercially packaged, non-potentially hazardous food items, such as cans of soda or bags of chips, off the unit if they are limited to what might be sold during a typical meal period.

### **Auxiliary storage**

**Auxiliary storage shall be limited to an amount that can be used in the course of a day's operation** and stored in such a manner as to prevent contamination or infestation (water-tight covered containers). At the end of the day, items **must be placed in the unit or a licensed warehouse**. No self-service, assembly or preparation activities may occur from the auxiliary storage container.

Refrigerators and freezers may **not** be placed outside the unit and must be in the unit or in a licensed warehouse. Handling of unpackaged foods, dishwashing and ice making are **prohibited** in a warehouse.

## **Mobile Food Units Operating at Temporary Events**

Events include fairs, carnivals, circuses, festivals, concerts or any other temporary public gathering. As a licensed mobile food unit, you may operate as a single-event temporary restaurant as specified under ORS 624.650. If you are operating at a temporary event that you may utilize off-unit tables and display areas for non-potentially hazardous foods and dispensed beverages, condiments, and single-service articles such as napkins and utensils. However, the off-unit tables and display areas allowed under this rule may not be used to conduct activities such as food preparation, assembly or cooking. In addition, the display or dispensing of potentially hazardous foods is not allowed. Mobile food units that place equipment or conduct operations outside the unit that are beyond those allowed in this rule must obtain a single-event temporary restaurant license from the county where the event will be held.

## **Food Handler Certificates**

All food service workers must obtain a food handler certificate. For more information on how to obtain a food handler certificate, contact your County Health Department or go to:

<https://www.orfoodhandlers.com/eMain.aspx>

## Food Sanitation Requirements

### Person In Charge (PIC)

Someone at your mobile unit must be in charge during all hours of operation. This person is responsible for knowing the food sanitation rules and the procedures within your unit. This person needs to be able to provide employees with information they need to perform their job. The Person In Charge (PIC) must inform employees to notify the PIC when the employee is experiencing fever, sore throat, or gastrointestinal symptoms such as vomiting, diarrhea, and nausea. The PIC must have the authority to send an employee home (Sections 2-101.11; 2-201.12). The PIC must also be able to describe the major food allergens and the symptoms that they could cause if a customer had an allergic reaction.

The person in charge is required to demonstrate knowledge of rules applicable to the food service operation. Demonstration of knowledge can be met by obtaining a food manager training certificate, having no critical violations, or by correctly answering the inspector's food safety questions. Critical violations are violations that are known to cause foodborne illness. See [www.healthoregon.org/foodsafety/](http://www.healthoregon.org/foodsafety/) for approved food manager certificates.

### Sick Employees Must Not Work

**Employee Illness** Any person, who is infected with a communicable disease, has vomiting, abdominal cramps or diarrhea must **not** work in food service until the person is completely free from symptoms (Section 2-201.11). Employees with undiagnosed vomiting and diarrhea may not return to work for at least 24 hours after symptoms have gone.

Infected sores or cuts on employee hands must have a watertight cover such as a finger cot that protects the lesion and a single-use-non-latex glove is worn. Infected sores or cuts on other parts of the body, such as the arms, need to be covered by a dry clean tight-fitting bandage. Latex gloves are prohibited (Section 3-304.15).

### Handwashing Facilities

Handwashing facilities must have warm running water, dispensed soap, paper towels, and a wastebasket. (Sections 6-301.11; 6-301.12; 6-301.20; 6-302.11).

Class II, III and IV mobile units must be plumbed to provide hot and cold running water.

**When and How to Wash Hands** Handwashing is very important when working with food and drinks. Handwashing removes microorganisms that are known to cause illness. Food workers need to wash hands between changing tasks, after handling raw meats, and anytime hands may have been contaminated. The best way to wash hands is to scrub for about 20 seconds with warm running water and soap. Rinse and dry hands with paper towels (Sections 2-301.12; 2-301.14; 2-301.15).

A double handwash is required whenever you enter the unit, after using the restroom, after smoking, and anytime hands become contaminated with body fluids. A double handwash requires you to lather hands with soap and warm water for approximately 20 seconds, rinse, and repeat a second time. Dry hands with paper towel. A double handwash is to prevent the spread of diseases that workers might have even though they are not yet showing the symptoms (Section 2-301.13).

## **Food Source**

All food products must be wholesome and free of spoilage, microorganisms, toxic chemicals, and other harmful substances that can make people sick. All food products must be prepared, stored, handled, or displayed so that it is safe for people to eat (Sections 3-201.11 thru 3-201.17).

Home canned or home processed foods are not allowed. All food must either be prepared in the unit or obtained from an approved source. Home-prepared foods must not be stored on the unit or served to the public. The only alternative to preparing the food in the unit is to prepare the food in an approved licensed facility such as a commissary. If you plan to prepare food off the unit, a separate commissary license is required.

## **Water Source**

All water used in the mobile food unit must be from an approved public water system. A mobile food unit may also use commercially bottled water (Sections 5-1; 5-2; 5-3).

## Potentially Hazardous Foods (PHF)

Potentially hazardous foods are:

- Food of an animal origin (raw or cooked)
- Cooked plant products
- Raw seed sprouts, cut melons, garlic and oil mixtures, cut leafy greens and tomatoes

Examples: hamburgers, tacos, hot dogs, spaghetti, chili, cooked rice, cooked potatoes, and cooked beans (Section 1-201.10).

## Food Temperatures

**Hot and Cold Holding** Potentially hazardous foods must be kept cold at 41°F or colder or kept hot at 135°F or hotter. Temperatures between 41°F and 135°F allow for rapid growth of bacteria that can make people sick. Use equipment capable of holding food hot (135°F or hotter). Open flames often fail and blow out. Be sure equipment will work and can hold food hot at all times (Sections 3-501.11 thru 3-501.19).

Use refrigerators or ice to store food cold (41°F). The ice must be from an approved source. All containers used must allow for water to drain away as ice melts (like an insulated cooler with drain plug). Keep enough ice available to keep the food surrounded by ice for the duration of the operation.

**Date Marking** Date-mark ready-to-eat potentially hazardous foods that will be kept longer than 24 hours at 41°F with a date to discard at 7 days from the day of preparation.

**Thawing Foods** Foods may be thawed under refrigeration, under cool running water, or in a microwave if it will be cooked immediately.

**Cooling** The best way to keep food safe is to make it fresh each day, just before you serve it. If you have food that is leftover or made in advance, you must cool it from 135°F to 70°F within two hours. Then the food must cool from 70°F to 41°F within four hours. If the food does not reach 70°F within two hours, you must reheat the food to 165°F, and start the cooling process again or you may serve it immediately or hot hold the food until service. If the food takes longer than four hours to drop from 70°F to 41°F, it must be discarded. Refer to the food handler manual for more information or look online at: [www.healthoregon.org/foodsafety](http://www.healthoregon.org/foodsafety).

**Cooking** Cook raw animal products to the following internal temperatures (Sections 3-401.11 thru 3-401.13):

- Ground beef and other ground meats to 155°F
- Pork, eggs, fish and other potentially hazardous foods 145°F

A consumer advisory will be required for facilities that serve raw or under cooked animal

products, such as “burgers cooked to order”.

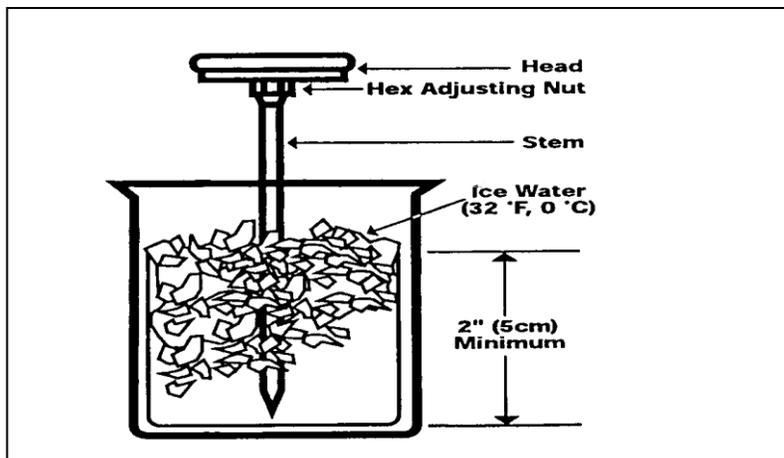
### Reheating

All potentially hazardous foods that have been cooked and cooled must be reheated to at least 165°F within two hours before being placed in hot holding (Section 3-403.11).

## Thermometers

Metal-stem probe food thermometers with a temperature range of 0°F to 220°F are required to test food temperatures when holding foods hot, cold or when cooking raw animal products. Clean and sanitize your thermometer after each use (Sections 4-203.11; 4-502.11). A small diameter probe is required to measure the temperature of thin foods, such as burgers and fish fillets.

It is important to ensure that the thermometer is working properly. An easy way to check your thermometer is to pack a container with crushed ice and add enough water to make it slushy. Put the thermometer into the slush and wait for 30 seconds until the dial stops moving. The dial should read 32°F. If it has a different reading, adjust the hex nut keeping the probe in the slush until it reads 32°F. For digital thermometers, follow manufacturer instructions on how to adjust the thermometer.



Refrigerator thermometers are required to confirm that the refrigerator or cooler is staying cold at 41°F (Section 4-204.112).

## Dishwashing

A commercial dishwasher or a three-compartment sink are used to wash, rinse, and sanitize all equipment and utensils. Using a three-compartment sink, wash equipment and utensils with soapy hot water, rinse with hot water, immerse in sanitizer and air dry. Sanitizer can be made up of 50-100 ppm of chlorine bleach or 200 ppm of quaternary ammonium. Use test strips that are made for the sanitizer that you are using. The test strips will ensure that the sanitizer has been mixed according to manufacturer's directions (Chapter 4).

For units that do not have a dishwashing, you must bring multiple clean utensils to replace any that have been in use for four hours or utensils that have been dropped or contaminated.

## **Cleaning and Sanitizing**

Clean and sanitize food-contact surfaces between preparing raw and ready-to-eat foods. Food contact surfaces must be washed, rinsed, and sanitized as with dishwashing. Wiping cloths must be stored in a sanitizing solution between uses. Wipe cloths used for wiping areas that contacted raw animal products must be stored in a container of sanitizer separate from all other sanitizers (Section 3-304.14).

## **General Food Protection**

- Store food and utensils up off the floor. Store food only in food grade containers. Protect food and utensils from dust and other contaminants (Sections 3-305.11; 4-1)
- Store chemicals such as liquid bleach and detergents below and separate from the food and utensils. Properly label all chemical containers (Section 7-2)
- Keep all garbage in a watertight container with lid (Section 5-5)
- Dispose of wastewater properly into a plumbed sewer (Section 5-4)
- Protect food from insects and rodents (Sections 6-202.15; 6-501.111)



## MOBILE FOOD UNIT PLAN REVIEW PACKET

Complete the attached documents and submit them with the required plan review fee to the local environmental health department. **Approval from the local environmental health department must be obtained prior to construction or operation of your unit.** Include the following information with your plan review submission:

**A.** Mobile Food Unit Plan Review Application

**B.** Mobile Food Unit License Application Form

**C.** Menu – Attach a complete menu: A printed menu or list of all food you will serve

**D.** Floor Plan/Equipment Layout

- Complete plans of the unit drawn to scale, including floor plan, equipment location, and plumbing fixtures
- Handwashing sink
- Three-compartment sink with drain boards; include dimensions (L x W x D) of interior of sink basin.
- Indirect drain and p-trap for three-compartment sink
- Food preparation sink (if applicable)
- Water pump and hot water heater
- All equipment in unit, including, but not limited to: (a) Type/model of refrigeration and freezer equipment, (b) Cooking equipment, (c) Hood vent, etc.
- Fresh water tank: size (L x W x D) and location
- Waste water tank: size (L x W x D) and location

**E.** Plan Review Worksheet

- Table 1 Food Handling Procedures
- Table 2 Material List
- Table 3 Refrigeration/Freezer Capacity
- Table 4 Hot Holding Units
- Table 5 Plumbing (indirect drain, p-trap, etc.)
- Table 6 3-Compartment Sink Measurements
- Table 7 Fresh Water Tank Measurements
- Table 8 Waste Water Tank dimensions
- Table 9 Operating Schedule

**F.** Waste Water Disposal Form (if needed)

**G.** Restroom Agreement Form (if needed)

**H.** Commissary (Commercial Kitchen) Verification Form

**I.** Cooling Plan and Logs (if needed)

## MOBILE FOOD UNIT PLAN REVIEW APPLICATION

Business name: \_\_\_\_\_

Business address: \_\_\_\_\_

Owner name: \_\_\_\_\_

Individual  Corporation  Partnership  Other  \_\_\_\_\_

Owner mailing address: \_\_\_\_\_

Owner phone #: \_\_\_\_\_ Establishment phone #: \_\_\_\_\_

Owner email address: \_\_\_\_\_ Social Media: \_\_\_\_\_

New construction  Remodel  Completion date: \_\_\_\_\_

Previously licensed? Yes  No  Former name: \_\_\_\_\_

If yes, last year of operation: \_\_\_\_\_ County/State last licensed: \_\_\_\_\_

License Plate #: \_\_\_\_\_ State: \_\_\_\_\_ VIN #: \_\_\_\_\_

Mobile Food Unit Class: I  II  III  IV

Plan to operate without a licensed commissary or warehouse? Yes  No

OAR 333-162-0920 requires that a completed plan review packet be submitted and reviewed before your unit can be issued a license and approved to operate. Incomplete plans may be returned for additional information.

**The payment of \$\_\_\_\_\_ mobile food unit plan review fee enclosed.  
Make checks payable to:**

I agree to comply with the provisions of Oregon Revised Statutes, Chapter 624, and the Administrative Rules, Chapter 333, of the Oregon Department of Human Services.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

***Please call your local County Environmental Health Office if you have questions about your license, fees, facility inspections or how to obtain a food handler certificate.***

### FOR OFFICE USE ONLY

Fee received: \_\_\_\_\_ Date: \_\_\_\_\_

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved  Not Approved

Comments: \_\_\_\_\_

## General Requirements and Limitations

**Mobile Unit:** A mobile food unit is defined in OAR 333-150-0000, 1-201.10 as "...any *vehicle* that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer."

**Classifications:** There are four types of mobile food units. The mobile food unit classifications are based upon the type of **menu served**. Failure to obtain approval for a menu change after it has initially been approved may result in closure of your unit.

**CLASS I** - These units can serve only intact, packaged foods and non-potentially hazardous drinks. No preparation or assembly of foods or beverages may take place on the unit. Non-potentially hazardous beverages must be provided from covered urns or dispenser heads only. No dispensed ice is allowed.

**CLASS II** - These units may dispense unpackaged foods. However, no cooking, preparation or assembly of foods is allowed on the unit. No self-service by customers is allowed.

**CLASS III** - These units may cook, prepare and assemble food items. However, cooking of raw animal foods on the unit is not allowed.

**CLASS IV** - These units may serve a full menu.

**Maintained as Approved:** Mobile food units must be maintained and operated as originally designed and approved. Units that have been modified without approval must revert to the approved design and operation. OAR 333-162-0020

**Wheels:** Mobile food units must remain mobile at all times. The wheels of a mobile food unit must be functional and appropriate for the type of unit and may not be removed at the operating location. OAR 333-162-0030

**Designed in One Piece:** Mobile food units must be designed and constructed to move as a single piece. Mobile food units may not be designed to be assembled at the operating location. See OAR 333-162-0020 for exceptions.

**Integral:** All operations and equipment must be integral to the mobile food unit. Integral means rigidly and physically attached to the unit without restricting the mobility of the unit while in transit. The following exceptions are allowed:

Auxiliary Storage: A mobile unit may provide auxiliary storage outside the unit to support daily operations if:

- Items are limited to what is necessary for that day's operation.
- At the end of the workday, auxiliary storage must be placed in the unit, in a licensed warehouse or at a licensed commissary.
- No self-service, assembly or preparation activities may occur from auxiliary storage containers.

- Refrigerators and freezers may not be placed outside the mobile food unit for use as auxiliary storage and must be located in the unit, in a licensed warehouse or at a licensed commissary.

**Shelves and Tables:** Mobile food units may use small folding shelves or tables that are integral to the unit to display non-potentially hazardous condiments and customer single-use articles such as napkins and plastic utensils. OAR 333-162-0020

**Non-PHF Display:** Mobile food units may display commercially packaged, non-potentially hazardous food items, such as cans of soda or bags of chips, off the unit if limited to what can be served or sold during a typical meal period. OAR 333-162-0020

**Cooking Units:** Class IV mobile food units may use one cooking unit, such as a BBQ or pizza oven, that is not integral to the unit. The cooking unit may not be a flat top grill, griddle, wok, steamtable, stovetop, oven or similar cooking device. The cooking unit must be able to move with the unit. OAR 333-162-0020

**Exterior Protection:** Mobile food units must be secured and protected from contamination when not in operation. OAR 333-162-0680

**Water and Sewer Capacity:** Mobile food units must be designed with integral water and sewer tanks on the unit. A mobile food unit may connect to water and sewer if it is available at the operating location, however tanks must always remain on the unit. A unit cannot connect directly to fresh water without a direct connection to sewer as well. OAR 333-150-0000, Section 5-305.11

**Restroom Distance:** If a unit is parked in the same location for more than two hours, a restroom must be provided that is located within 500 feet of the unit. OAR 333-150-0000, Section 6-402.11

**Seating:** Mobile food unit operators may provide seating for customers if a readily accessible restroom and sufficient refuse containers with lids or covers are provided. OAR 333-162-0020

**Commissary:** A mobile food unit is required to operate from a licensed commissary or warehouse unless the unit contains all the equipment and utensils necessary to assure the following:

- (a) Maintaining proper hot and cold food temperatures during storage and transit;
- (b) Providing adequate facilities for cooling and reheating of foods;
- (c) Providing adequate handwashing facilities;
- (d) Providing adequate warewashing facilities and assuring proper cleaning and sanitizing of the unit;
- (e) Obtaining food and water from approved sources;
- (f) Sanitary removal of waste water and garbage at approved locations.

A mobile food unit may not serve as a commissary for another mobile food unit or as the base of operation for a caterer. OAR 333-162-0040

**Warehouse:** A warehouse may be used for storage of only unopened packaged foods, single service articles, utensils and equipment. Activities such as handling of unpackaged food, dishwashing and ice making are prohibited in a warehouse. OAR 333-162-0940

**Catering and Delivery:** A mobile food unit may not provide catering services unless:

- 1) The unit operates from a licensed commissary; or
- 2) The unit has commercial-grade refrigeration equipment, has obtained a variance from the Oregon Health Authority, and uses only single-use articles for service to customers. OAR 333-162-0030

Finally, while this document contains some detailed information about the rules for the construction and operation of mobile food units, it does not contain all the requirements for your unit. Please refer to the Food Sanitation Rules [www.healthoregon.org/foodsafety](http://www.healthoregon.org/foodsafety).

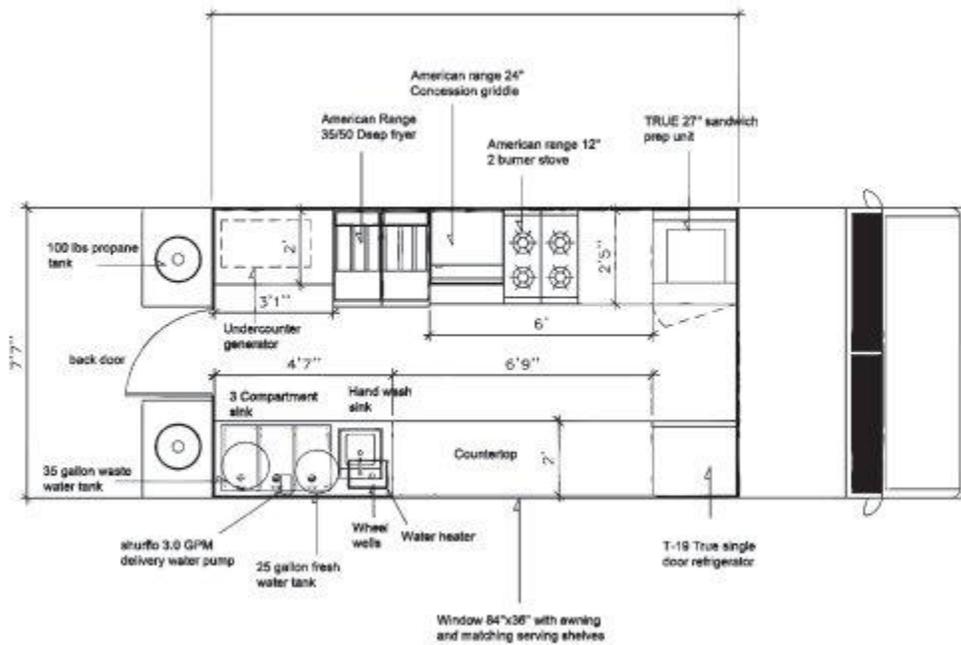
Requirements	Class I	Class II	Class III	Class IV
Water Supply Required	No	Yes	Yes	Yes
Handwashing System Required	No	Yes <sup>1</sup>	Yes <sup>1</sup>	Yes <sup>1</sup>
Dishwashing Sinks Required	No	No <sup>2</sup>	Yes – Or Licensed Commissary <sup>2</sup>	Yes <sup>2</sup>
Assembly or Preparation Allowed	No	No	Yes	Yes
Cooking Allowed	No	No	Yes <sup>3</sup>	Yes
Off-Unit Cooking Operation Allowed	No	No	No	Yes
Restroom Required	Yes	Yes	Yes	Yes
Examples	Prepackaged Sandwiches/ Dispensed Soda	Service of Unpackaged Food Items	Espresso/ Hot Dogs	No Menu Limitation

<sup>1</sup>The handwashing system must be plumbed to provide hot and cold or tempered running water and a minimum of 5 gallons of water must be dedicated for handwashing.

<sup>2</sup>Must provide a minimum of 30 gallons of water for dishwashing or twice the capacity of the three compartment sinks, if provided.

<sup>3</sup>May only cook foods that are not potentially hazardous when raw (rice, pasta, etc.). Animal foods must be pre-cooked.

**\*FLOOR PLAN LAYOUT EXAMPLE:**



Note: Your floor plan does not need to be an engineer's copy, but it must have all the required information from Tables 2-8 clearly shown.

**E: Plan Review Worksheet Tables 1-9**

<b>Table 1: Food Handling</b>			
<b>Procedures</b>	<b>Yes / No</b>	<b>If Yes, Where Will Procedure Take Place</b>	
		<b>Mobile</b>	<b>Commissary</b>
Washing fruits and/or vegetables	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Thawing frozen foods <sup>1</sup>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Food preparation - chopping, par-cooking, marinating, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Cooking food	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Cooling food <sup>2</sup>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Reheating food	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Refrigeration (cold holding) of foods	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Steam table or other way of hot holding food	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<sup>1</sup> How you will thaw frozen foods:			
<sup>2</sup> If cooling foods, one of the below processes must be in place. Please choose option a, b or c below:			
a. I have a licensed commissary where I will be cooling foods; or			
b. I will be using a commercial refrigeration unit(s) on the mobile unit; or			
c. I am providing a written cooling procedure accompanied by cooling logs for approval. To do this option, you must provide a written procedure for each food item you will be cooling with your packet.			
Explain what you will do with leftover foods:			
Will raw or undercooked animal products be served? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list the specific animal products that will be served raw or undercooked (example: eggs, ground beef):			
Will any food items be held without temperature control during service? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list the specific food items held out of temperature during service:			
Explain other procedures that you will be doing that have not been listed previously:			

<b>Table 2: Material List</b>				
Describe surface finishes used on floors, walls, ceilings and countertops.				
<b>Material Type</b>	<b>Counters</b>	<b>Floors</b>	<b>Walls</b>	<b>Ceiling</b>
Fiber-reinforced plastic (FRP)				
Stainless Steel				
Vinyl				
List other construction materials used:				
Are windows and/or doors screened: <input type="checkbox"/> Yes <input type="checkbox"/> No If no, how will you control for pest problems? (Attach your procedures for pest control)				

Table 3: Refrigerator/Freezer Capacity				
Unit Type	Yes / No	Make/Model of Unit	# of units	Power Source Electric (E) Generator (G) Propane (P) Other (O)
Reach in refrigerator (under counter)	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Refrigerator (stand up)	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Prep top sandwich refrigerator	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Reach-in freezer (under counter)	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Freezer (stand up)	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Fridge/Freezer (stand up)	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Other cold holding storage	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Do you have thermometers inside each refrigerator and freezer: <input type="checkbox"/> Yes <input type="checkbox"/> No				

**Note:** Mobile food units newly licensed in Oregon may not utilize cold plates that do not have an associated power source, such as a battery, generator or propane tank, as the sole means for temperature control. OAR 333-162-0880

Table 4: Hot Holding Units				
Unit Type	Yes / No	Make/Model of Unit	# of units	Power Source Electric (E) Generator (G) Propane (P) Other (O)
Steam Tables	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Other Hot Holding Storage	<input type="checkbox"/> Yes <input type="checkbox"/> No			
What type of ventilation system do you have? <input type="checkbox"/> Type 1 hood <input type="checkbox"/> Type 2 hood <input type="checkbox"/> Other system If other system, please describe:				

Table 5: Plumbing Fixtures: Check items in the mobile unit and provide required information			
Three-compartment sink	<input type="checkbox"/> Yes <input type="checkbox"/> No	Food preparation sink with indirect plumbing	<input type="checkbox"/> Yes <input type="checkbox"/> No
Indirect plumbing on three-compartment sink	<input type="checkbox"/> Yes <input type="checkbox"/> No		
P-trap	<input type="checkbox"/> Yes <input type="checkbox"/> No	Backflow prevention device	<input type="checkbox"/> Yes <input type="checkbox"/> No
Handwashing sink	<input type="checkbox"/> Yes <input type="checkbox"/> No	Mechanical pump	<input type="checkbox"/> Yes <input type="checkbox"/> No
Hot & cold water	<input type="checkbox"/> Yes <input type="checkbox"/> No	Hot water heater	<input type="checkbox"/> Yes <input type="checkbox"/> No Gallons? _____

Table 6: Three-Compartment Sinks/Dishwashing Provide interior of sink basins dimensions in inches – length x width x depth			
Dimensions of Interior of Sink Basins			How many drain boards
Length	Width	Depth	

Where will washing of equipment and utensils take place:

- Mobile unit three-compartment sink<sup>1</sup>
- Licensed Restaurant or Commissary

<sup>1</sup>Provide LxWxD for the interior basins of the three-compartment sink. Provide separate measurements of each sink basin if they are different sizes.

To determine the minimum amount of water that must be dedicated for dishwashing purposes, you need to calculate the capacity of your three-compartment sink. Measure the inside of the three-compartment sink basin in inches, then multiply Length x Depth x Width = \_\_\_/231 x 6 = \_\_\_ gal. This is the minimum amount of water that must be provided for dishwashing.

For example: If sinks are 10 x 10 x 14/231 x 6 = 41 gallons.

**Note:** All sinks must provide water under pressure of a least 20 PSI. Gravity fed is not allowed. OAR 333-150-0000, 5-203.11

**Table 7: Fresh Water Tank – Must Be Translucent**

**Dimensions of Fresh Water Tank (in inches)**

Length	Width	Depth	Capacity in gallons

**Please indicate water dedicated to the following purposes:**

Activity	Required	Provided
Handwashing	Minimum 5 gallons	
Dishwashing (See Table 6)	Minimum 30 gallons	
Cleaning		
Use in product (ex: ice making, coffee making)		
Equipment (ex: filling steam tables)		

Tank Location:

**Table 8: Waste Water Tank – Must be 15% Greater than Fresh Water Tank**

**Dimensions of Waste Water Tank (in inches)**

Length	Width	Depth	Capacity in gallons <sup>1</sup>

Tank Location:

How will the waste water be removed and where will it be disposed from your waste water tank?

Does liquid producing equipment (ex: espresso machine) drain indirectly into the waste water tank?

- Yes  No If yes, list equipment:

**Table 9: Operating Location/Schedule**

Name of your mobile unit:

- I plan to operate at one location
- I plan to operate at multiple locations

Operating Location – Address, City, Zip Code:

If operating at multiple locations, please list location name or address and approximate time and dates at each location:

# RESTROOM USAGE AGREEMENT

The following licensed mobile unit, known as \_\_\_\_\_, located at \_\_\_\_\_, hereby agrees to use/provide restrooms for employee and/or customer use if operating in one location for more than two hours. Mobile food units first licensed on or after February 1, 2020 must be located within 500 feet of an accessible restroom with a handwashing system that meets Food Sanitation Rule requirements. This restroom must be accessible for employee/customer use during all hours the unit is in operation per OAR 333-150-0000, 6-402.11(E).

Restroom location/Facility name: \_\_\_\_\_

Hours the restroom is available for use: \_\_\_\_\_

Hours the mobile unit is in operation at this location: \_\_\_\_\_

This agreement is valid for the current licensing year only and must be renewed after that date. **If this agreement is terminated, the mobile food unit must immediately cease operations until another Restroom Usage Agreement is secured and provided to the health department.** This agreement becomes void if the food service establishment does not have a current license to operate.

Signed by:

**Operator Allowing Restroom Use (Print):** \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Mobile Food Unit Owner (Print):** \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

For office use only:

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

# COMMISSARY/WAREHOUSE USAGE AGREEMENT

The following licensed food service establishment, known as \_\_\_\_\_,  
located at \_\_\_\_\_,  
hereby agrees to provide access to their facility to \_\_\_\_\_  
mobile food unit for use as a commissary or warehouse. This commissary is to be used for all  
preparation and/or storage of food items, dishwashing, unit servicing or any other purposes as  
required by the local public health authority. This warehouse is to be used for storage of  
commercially packaged products only.

This agreement between the above-mentioned two parties is valid for the current licensing year  
only and must be renewed after that date. **However, if this agreement is terminated, the mobile  
food unit must immediately cease operations until another commissary or warehouse  
agreement is secured and provided to the health department.** This agreement becomes void if  
the food service establishment does not have a current license to operate.

Signed by:

**Restaurant Owner (Print):** \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Mobile Food Unit Owner (Print):** \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

For office use only:

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

# WASTE WATER DISPOSAL AGREEMENT

The following licensed mobile unit, known as \_\_\_\_\_, located at \_\_\_\_\_, hereby agrees to dispose of their waste water properly on site to an approved waste water system or by using a licensed wastewater hauler.

1) If disposing on site, explain how this will be done correctly: \_\_\_\_\_, or

2) If using a waste water hauler, please list:  
Name of Licensed Waste Water Hauler: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
Department of Environmental Quality registration #: \_\_\_\_\_, or

3) If hand carrying waste, it must be to a specific disposal location approved by the local regulatory authority and cannot be transported in more than 20 gallons at a time. Explain how this will be done correctly: \_\_\_\_\_

This agreement is valid for the current licensing year only and must be renewed after that date. **If this agreement is terminated, the mobile food unit must immediately cease operations until another Waste Water Disposal Agreement is secured and provided to the Health Department.** This agreement becomes void if the food service establishment does not have a current license to operate.

Please keep receipts from the hauler available to show during inspections. To find out if your wastewater hauler is licensed, please contact the Oregon Department of Environmental Quality.

Signed by:

**Hauler Representative (Print):** \_\_\_\_\_

\_\_\_\_\_  
Signature (or attach copy of contract with hauler) Date

**Mobile Food Unit Owner (Print):** \_\_\_\_\_

\_\_\_\_\_  
Signature Date

For office use only:

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_



## Instructions for Mobile Food Unit License Application

1. Complete the attached application in its entirety making sure every blank is completed. If not applicable, write NA on the blank.
2. Every property owner listed on the deed must sign and date the application.
3. If a contract purchase, in addition to the property owners listed on the deed, every individual listed as a contract purchaser on the purchase contract must sign and date the application AND a copy of the purchase contract must be included with the submittal.
4. All items listed on the application as requirements to be shown on the site plan, must be shown on the site plan.
5. For an application to be accepted for processing, all of the following must be contained in the application package:
  - The completed application with the applicant signature and all property owner signatures
  - Completed application for a Lincoln City Occupation Tax Permit (OTP)
  - A written agreement with the property owner granting permission to locate a mobile food unit on the site in the case of private property OR an approved PARKS CONCESSIONS agreement
  - Trash and food waste containment, storage, and disposal plan
  - Narrative of proposed methods of containment, storage, and disposal for grease, sanitary sewer, and wastewater
  - One paper copy of the site plan showing ALL required elements listed on the application
  - Proof of inspection by the Fire Marshal
  - Copy of all State, County, City food service licenses and permits for the license year [All applicants must meet state, county, and other applicable city standards relating to, but not limited to: food preparation, Serve Safe, licensing, health and safety standards.]
  - Proof of insurance as required in Lincoln City Municipal Code (LCMC) 5.30.030
  - Applicable fees
6. Applications will NOT be accepted until all items in **#1 through 5** above are present.
7. Once accepted and approved by the Lincoln City Planning & Community Development Department, then the Lincoln City Finance Department will review, process the fees, and issue the required OTP and mobile food unit license.



# Mobile Food Unit License Application

**APPLICANT:**

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
PHONE: \_\_\_\_\_  
E-MAIL: \_\_\_\_\_

**PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):**

*Copy of purchase contract must be included with submittal.*

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
PHONE: \_\_\_\_\_  
E-MAIL: \_\_\_\_\_

**PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):**

*Copy of purchase contract must be included with submittal.*

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
PHONE: \_\_\_\_\_  
E-MAIL: \_\_\_\_\_

**SITE INFORMATION:**

ZONING DISTRICT:  PC  RC  
 GC  NP – Business District  
 P  NP – Beachside Mixed Use  
 PI  TVC  
 OP

SITE ADDRESS: \_\_\_\_\_  
SITE TAX MAP: \_\_\_\_\_

Is the property owned by the City of Lincoln City?

\_\_\_\_\_ Yes, and the Parks Concession Agreement is attached.

\_\_\_\_\_ No, and the written agreement from the property owner for mobile food unit use of the site for the license year is attached. (LCMC 17.80.170.B.1 and LCMC 5.30.025.A.2)



**ATTACHMENTS:**

- \_\_\_\_\_ Written agreement with the property owner, wherein the proper owner grants permission to locate a mobile food unit on the site (required unless applicant and property owner are the same) (LCMC 17.80.170.B.1 and LCMC 5.30.025.A.2)
- \_\_\_\_\_ Valid license from Environmental Health Department (LCMC 17.80.170.B.5 and LCMC 5.30.025.A.8 and 5.30.040.B)
- \_\_\_\_\_ Documentation from the Fire Marshal that the unit has passed inspection (LCMC 17.80.170.B.9 and LCMC 5.30.040.A)
- \_\_\_\_\_ Plan for trash and food waste containment, storage, and disposal (LCMC 5.30.040.A.5)
- \_\_\_\_\_ If Class III or IV, plan for methods of containment, storage, and disposal for grease, sanitary sewer, and wastewater (LCMC 5.30.040.A.6)
- \_\_\_\_\_ Signed agreement or plan for vendor and patron restroom and hand-washing facilities (LCMC 5.30.040.A.7)
- \_\_\_\_\_ Food handling permit from Environmental Health Department (LCMC 17.80.170.B.11 and LCMC 5.30.025.A.8)
- \_\_\_\_\_ Serve Safe permit from Environmental Health Department (LCMC 17.80.170.B.11 and LCMC 5.30.025.A.8)
- \_\_\_\_\_ Proof of insurance (LCMC 5.30.025.A.9 and 5.30.030)
  - City-owned property – LCMC 5.30.030.A.
  - Privately-owned property – LCMC 5.30.030.B

**ACKNOWLEDGEMENTS:**

My/our initials on the blank next to each item below indicate my/our acknowledgement that the submitted site plan clearly identifies the following items:

- \_\_\_\_\_ North arrow, scale, and date of drawing (LCMC 17.80.170.D.3.a)
- \_\_\_\_\_ Property boundaries and dimensions (LCMC 17.80.170.D.3.b)
- \_\_\_\_\_ Location of existing structures (LCMC 17.80.170.D.3.c)
- \_\_\_\_\_ Proposed location of mobile food unit with distances from all property lines and all structures (LCMC 17.80.170.D.3.d)
- \_\_\_\_\_ Distances of at least 10 feet between any property line and the mobile food unit (LCMC 17.80.170.B.6.a)
- \_\_\_\_\_ How placement of the mobile food unit maintains 3 feet of clearance around all exit paths from the unit (LCMC 17.80.170.B.6.b)

\_\_\_\_\_ Parking lot layout, drive aisles, access, and pedestrian and vehicular circulation pattern with dimensions (LCMC 17.80.170.D.3.e)

\_\_\_\_\_ At least one access path to and from the unit and the public access way complying with ADA access requirements (LCMC 17.80.170.B.4)

\_\_\_\_\_ Location of shared dining area, if any, and the location of the ADA-accessible path from the mobile food unit to the ADA-accessible dining area (LCMC 17.80.170.C.1)

**NOTE: ALL OF THE ABOVE ITEMS MUST BE CLEARLY IDENTIFIED ON THE SUBMITTED SITE PLAN BEFORE THE APPLICATION CAN BE ACCEPTED FOR PROCESSING**

I/we acknowledge the following:

\_\_\_\_\_ A mobile food unit is a wheeled mobile unit that meets state, county, and Department of Motor Vehicles requirements for licensing, registration, and operation as a unit utilized to provide commercial food preparation and serving to the general public. Food may be prepared or processed on the unit, and said prepared or processed food is sold and dispensed to the ultimate consumer from the unit.

\_\_\_\_\_ The mobile food unit is fully contained, and equipment is integral to the unit. (LCMC 17.80.170.B.2)

\_\_\_\_\_ External generators are prohibited. (LCMC 17.80.170.B.2)

\_\_\_\_\_ The mobile food unit does not block any designated travel or fire lanes, pedestrian access, or clear-vision areas. (LCMC 17.80.170.B.7)

\_\_\_\_\_ The mobile food unit does not occupy an parking space or required feature that is required for a use on the same site. (LCMC 17.80.170.B.7)

\_\_\_\_\_ The mobile food unit will not provide or serve customers as a drive-through facility (LCMC 17.80.170.B.8)

\_\_\_\_\_ Signs for the mobile food unit are wholly applied to the surface of the mobile food unit. (LCMC 17.80.170.B.10)

\_\_\_\_\_ The mobile food unit license is non-transferable. (LCMC 5.30.080.A)

\_\_\_\_\_ The mobile food unit may only operate in the approved location (LCMC 5.30.080.B)

\_\_\_\_\_ The mobile food unit shall not operate or be located within public right-of-way (LCMC 5.30.070.B.1)

\_\_\_\_\_ I/we will pick up any food waste, paper, cardboard, wood, or plastic containers, wrappers, trash, debris, and/or any litter in any form which is deposited by any person on the sidewalk or street or other property within 35 feet of my/our mobile food unit at any time the operation is open for business, and shall be responsible for the proper disposal of same. (LCMC 5.30.080.G)

\_\_\_\_\_ At the time of annual license renewal, the mobile food unit license shall not be renewed unless I/we submit an annual report and documentation for the preceding year(s) including (1) gross sales; (2) concession fees paid; (3) other fees and charges paid for use of public property or right-of-way; (4) Priority/Priority Foundation Fail records for the previous year. (LCMC 5.30.080.L)

I (We) hereby declare under penalty of perjury under the laws of the State of Oregon that the foregoing information is true, complete, and accurate. I (We) have read and fully understand, and agree to meet, the criteria for mobile food units as outlined in Lincoln City Municipal Code (LCMC) Chapter 5.30 and LCMC Section 17.80.170 and reflected in this application.

I (We) acknowledge that providing false information in the application shall be a violation and grounds to deny the application and void the approval.

**SIGNATURES:**

\_\_\_\_\_

Applicant (signature required)

\_\_\_\_\_

Date

\_\_\_\_\_

Property Owner/Contract Purchaser (signature required)

\_\_\_\_\_

Date

\_\_\_\_\_

Property Owner/Contract Purchaser (signature required)

\_\_\_\_\_

Date

- *All property owners listed on the deed must sign the application.*
- *All contract purchasers listed on the purchase contract must sign the application.*
- *If contract purchasers are individuals other than the property owners shown on the deed, all property owners listed on the deed as well as all contract purchasers listed on the purchase contract must sign the application.*

<b>Office Use Only City of Lincoln City</b>	
_____	
Approved by Planning & Community Development	
_____	_____
Date Received	Date Approved
_____	_____
Approved by ADA Coordinator	Date
_____	_____
Approved by Finance	Date



A food cart, also known as a mobile food unit, is a vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, or highway, on which food is prepared or processed and is used in selling and dispensing food to the consumer. (OAR 333-150-0000)

### Are building permits required?

A building permit is not required for a mobile food unit as defined in the Oregon Vehicle Code, as long as:

- The vehicle is on wheels at all times. (There is no requirement that it *be* moved at any specific time interval only that it be *able* to be moved.)
- It is not enclosed by a structure, attached to a structure, or otherwise restricted from being able to be moved at all times.
- It does not require a special permit from the Oregon Department of Transportation to be moved.
- Connection to onsite electrical is via a flexible cord plugged into a receptacle; no hard-wired connection allowed.
- There is no piped connection to water service or wastewater piping.

### Where are mobile food units allowed?

**Downtown:** Permits are required for food vending on public property in the downtown area. This includes:

- Ken Kesey Square at the corner of Willamette St. & E. Broadway
- Corner of W. Broadway & Olive St. (9 pm – 3 am)
- The park blocks on E. 8th Ave. between W. Park Ave. and E. Park Ave.

For permit information please contact the Saturday Market:

30 E. Broadway, #124, Eugene, OR  
(541) 686-8885

**Public Parks:** Food units are not allowed in City parks unless associated with an approved event. Authorization by the organizer of the event must be obtained.

*Note: This document should not be used as a substitute for codes and regulations. The applicant is responsible for compliance with all code and rule requirements, whether or not described in this document.*

**13<sup>th</sup> Ave. near the University:** There is an area between Kincaid St. and Ferry St. where food vending is allowed in the public right-of-way with a permit. Please contact the Eugene Chamber of Commerce at 541-484-1314 for details.

**Public Sidewalks:** Food vending is not allowed on public sidewalks with the exceptions noted above under Downtown and 13<sup>th</sup> Ave. near the University.

**Private Property:** Food vending is allowed in Commercial zones (C-1, C-2, C-3), Employment & Industrial zones (E-1, E-2, I-2) subject to special use limitations, and in the Walnut (S-WS) and Whiteaker (S-W) Special Area zones. To determine the zoning of a particular property you can visit our website at [www.eugene-or.gov/zoningmap](http://www.eugene-or.gov/zoningmap). The following are things to consider when vending on private property:

- Property owner approval
- Units cannot take up parking spaces required by other businesses at the location.
- Units are not allowed to block motor vehicle access or pedestrian ways.
- Pedestrian (walk-up) traffic only is allowed (no drive-thru service).
- Units should not be parked in required landscape areas.

### Are there any other regulations I should be aware of?

Yes, because the unit is selling food to the public it must be inspected and licensed by Lane County Health and Human Services:

151 W. 7th Avenue, Eugene, OR  
(541) 682-4051 (Se habla Español)  
Website: [www.lanecounty.org/HHS](http://www.lanecounty.org/HHS)

See details about the City's single-use ordinances at [www.eugene-or.gov/singleuse](http://www.eugene-or.gov/singleuse).

Please contact Land Use staff at 541-682-8336 or [landuseinfo@ci.eugene.or.us](mailto:landuseinfo@ci.eugene.or.us) for information related to these standards.

[www.eugene-or.gov/bps](http://www.eugene-or.gov/bps)



# Vending Carts on Private Property

If you are considering purchasing, installing or using a vending cart, it is important to understand which Building and Zoning Code standards may apply. Factors such as the location of the vending cart, the type of vending cart, and the utility services used by the vending cart will determine what Building and Zoning Codes may apply and what permits will be required.

Vending cart detail	Requirement
Location of vending cart	Check requirements with Planning and Zoning. Portland Bureau of Transportation (PBOT) approval required if placement is to be in right-of-way.
Mobile vending carts of any length	Associated development may require a zoning permit. Site built structures may require a building permit.
Mobile vending carts over 16' in length	Additional zoning restrictions apply. Check with Planning and Zoning.
Fixed vending carts	Must meet all requirements of Zoning and Building Codes. Requires a commercial building permit and inspection.
Drive-through vending carts (mobile and fixed)	Regulated by the Zoning Code. Check with Planning and Zoning. Requires a commercial building permit and inspections.
Electrical work	Requires an electrical permit and inspection. Electrical work must be performed by a licensed electrical contractor.
Water service and sanitary sewer installed	Commercial plumbing permits and inspections are required.
Manufactured building used as a fixed vending cart	Must have stamp or insignia of approval issued by the State of Oregon. Installation requires a commercial building permit and inspections.
Propane use	Portland Fire & Rescue requires an annual permit.
Portable Signs	Sign regulations apply and a sign permit is required.
Vending carts selling food	Require approval from the Multnomah County Health Department.

## Location of vending carts

If you are considering a vending cart, your first step should be to decide on the location. The location of the vending cart determines which codes apply and what permits may be required.

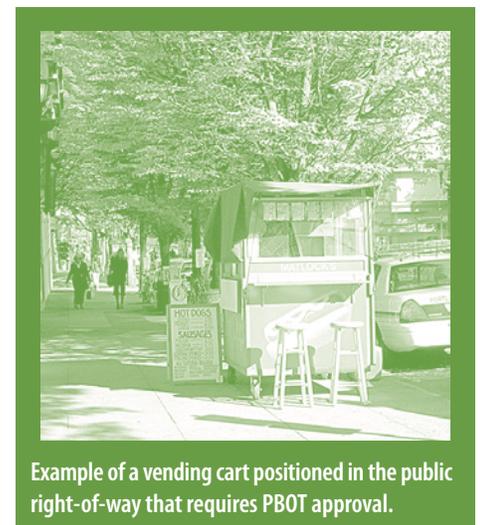
The information in this handout is related to vending carts on private property.

If you are considering locating a vending cart in the public right-of-way (on the sidewalk), the Portland Bureau of Transportation (PBOT) must approve this. To contact PBOT, call 503-823-7002, or visit their Web site at [www.PortlandOregon.gov/PBOT](http://www.PortlandOregon.gov/PBOT) for more information.

If you are considering a location for a vending cart on private property, check to see if the zoning on the site allows retail uses. To research zoning on a particular property, go to [www.PortlandMaps.com](http://www.PortlandMaps.com) or call the Planning and Zoning information line at 503-823-7526.

## What type of use is a vending cart?

Vending carts are a Retail Sales and Service use and are subject to all regulations regarding that use. Vending carts are also subject to the Zoning Code requirements for vehicles. Vending carts may have accessory uses such as storage, garbage enclosures, or bathrooms that are provided in structures.



Example of a vending cart positioned in the public right-of-way that requires PBOT approval.

## Are Retail Sales and Service Uses on my property allowed?

The uses allowed on a property vary based on the property's zoning. Only some zones allow for retail sales and services uses.

Type of Zone	Are Retail Sales and Service Uses allowed?
Residential Zones (R)- zones	No. RH and RX do have provisions for Retail Sales and Service uses but only as new floor area within a multi-dwelling development.
Commercial/Mixed Use Zones (C)-zones	Yes in CM2, CM3, CE, and CX. CR and CM1 limit the square footage of Retail Sales and Service uses. Hours of operation are also limited in the CR zone. Please check with a planner to determine if a new Retail Sales and Service can be developed on your site.
Employment Zones (E)-zones	Yes
Industrial Zones (I)-zones	All of the industrial zones have limits on the number of retail uses on a site. Please check with a planner to determine if a new Retail Sales and Service use can be developed on your site.
Campus Institutional Zones CI)-zones	Yes in CI2. CI1 limits the square footage of Retail Sales and Service uses. IR allows Retail Sales and Service uses as accessory and if identified in the institution's approved impact mitigation plan or conditional use master plan.

## If carts are allowed by my base zone, where can I put them on my property?

Vehicles are allowed on legally established parking or vehicle areas only. If new parking or vehicle areas are created, they must meet development standards including vehicle area limitations on frontage, placement and paving (33.266.130.C or 33.266.120), landscaping requirements (33.248), and any overlay zone or plan district standards. Vehicles can be allowed on nonconforming vehicle or parking areas if the areas were legally established. Parking areas must always be paved unless legally established without paving. Vehicle areas do not have to be paved.

## What is the difference between parking area and vehicle area?

Parking areas are areas where motorized vehicles are kept. If a car, truck, or any vehicle with an engine is kept in this area, it is a parking area. New parking areas always require landscaping and paving and must meet all of the development standards of 33.266.130 including striping, aisle width, paving, and landscaping. Additional standards may apply depending if the site is in an overlay zone or plan district.

Vehicle areas are areas where non-motorized vehicles are kept. Utility trailers can be kept in vehicle areas that do not have striping and aisle width requirements and that may or may not need landscaping and paving depending on the base zone, overlay zone, and plan district.

## Are all types of vending carts allowed in all zones?

No. Some zones have restrictions on the types of vehicles allowed.

Vehicle Type	Zones Allowed
Utility Trailer	Allowed in all Commercial/Mixed Use (C), Employment (E) zones, Industrial (I), and Campus Institutional zones.
Light Truck	Allowed in all Commercial/Mixed Use (C), Employment (E) zones, Industrial (I), and Campus Institutional zones.
Medium Truck	Allowed in CE and CM3, and Employment (E), Industrial (I), and CI2 zones.
Heavy Truck	Allowed in EG1 and EG2 and all Industrial (I) zones.

## What type of vehicle is my vending cart?



**Utility Trailers** are vehicles designed to be pulled by a motor vehicle that are used to carry property, trash, or special equipment and are 16 feet or less in length. Trailers longer than 16 feet are Heavy Trucks.



**Light Trucks** are trucks and similar vehicles with single rear axles and single rear wheels.



**Medium Trucks** are trucks and similar vehicles with single rear axles and dual rear wheels.



**Heavy Trucks** are trucks, including truck tractors, and similar vehicles with two or more rear axles. Trailers longer than 16 feet are Heavy Trucks.

## Types of vending carts

### Mobile vending carts

Mobile vending carts are on wheels. A building permit is not required for a mobile vending cart. A zoning permit may be required for development associated with the mobile vending cart, such as changes to an existing parking area, landscaping, and drive-through facilities.

Vending carts that are 16 feet or less in length are regulated in the Zoning Code as Utility Trailers. Vending carts over 16 feet in length, with or without wheels, are considered Heavy Trucks by the Zoning Code, and are not allowed in certain zones. See page 2 or call Planning and Zoning at 503-823-7526 for more information.

### Fixed vending carts

Vending carts of any length that have had the wheels removed are considered buildings and are subject to Building and Zoning Code requirements. A fixed vending cart of any length is considered a building and is subject to setback, building coverage, ground floor windows, and other Zoning Code regulations.

A building permit is required for a fixed vending cart. Fixed vending carts are required to have a rest room facility located on the property, a person door at least 32 inches wide and 80 inches high, an accessible ramp, and an approved permanent foundation. Garbage and recycling areas must be screened to the base zone standard and meet BES requirements for pollution prevention.

If plumbing fixtures are included in the vending cart, a connection to the sanitary sewer and domestic water service will be necessary.

Additionally, electrical service, including permanently wiring the building and installing a permanently wired feeder next to the fixed vending cart, will be required.

### Drive-through vending carts

Drive-through vending carts of any length, both mobile and fixed, are regulated by the Zoning Code. Drive-through facilities are only allowed in certain zones and plan districts in the City of Portland. Drive-through regulations can be found in Chapter 33.224 of the Zoning Code. You may contact the Planning and Zoning information line at 503-823-2633 or visit [www.PortlandOregon.gov/BDS/index.cfm?a=93080](http://www.PortlandOregon.gov/BDS/index.cfm?a=93080) for more information.

### Vending Cart Pods

Vending cart pods need a Development Review (DR) permit to review zoning and utility requirements. If any permanent structures, such as restrooms or covered eating areas are proposed, these will need a commercial building permit. Please call or visit the Development Services Center for more information. Garbage and recycling areas must be screened to the base zone standard and meet BES requirements for pollution prevention.

## Public health requirements

Vending carts providing food or beverages for public consumption must receive approval from the Multnomah County Health Department. Multnomah County requires that all plumbing fixtures be connected to an approved drainage system (OPSC 304.0, 305.0 and 713.0). Visit the Multnomah County Health Department Web site at [www.mchealth.org](http://www.mchealth.org) or call 503-988-3400 for more information.

## ADA Requirements

All businesses are required to make themselves accessible to people with disabilities under the Americans with Disabilities Act (ADA) Title III guidelines. For more information visit [http://adata.org/publication/disability-law-handbook#Public Accommodations and the ADA](http://adata.org/publication/disability-law-handbook#Public%20Accommodations%20and%20the%20ADA).

## Utility services to vending carts

### Propane use

Portland Fire & Rescue requires an annual permit for vending carts that utilize propane for cooking.

### Water service and /or sanitary sewer

A plumbing permit is required if a water service or sanitary sewer is installed. The plumbing must comply with the Oregon Plumbing Speciality Code.

### Garbage and Recycling

Garbage and recycling areas must meet the Storm Water Management Manual requirements. Contact Pollution Prevention for more information at 503-823-7122.

### Electrical service

An electrical permit is required for electrical work. Work must be done by a licensed electrical contractor.

## Manufactured buildings

Manufactured buildings that are being used as fixed vending carts must have a stamp or insignia of approval issued by the State of Oregon.

## Vending cart signs

Vending carts are allowed one portable sign (A-board) per cart. The sign must comply with Title 32.30.030, Portable Sign Regulations. For more information on registering a portable sign, please call 503-823-2633.

# Helpful Information

## Bureau of Development Services

City of Portland  
1900 SW 4th Avenue, Portland, OR 97201  
[www.PortlandOregon.gov/BDS](http://www.PortlandOregon.gov/BDS)

### General Office Hours:

Monday through Friday, 8:00 am to 5:00 pm  
BDS main number: 503-823-7300

### Permit information is available at the following location:

Development Services Center (First Floor)  
For hours call 503-823-7310  
or visit [www.PortlandOregon.gov/BDS](http://www.PortlandOregon.gov/BDS)

Permitting Services (Second Floor)  
For hours call 503-823-7310  
or visit [www.PortlandOregon.gov/BDS](http://www.PortlandOregon.gov/BDS)

# Important Telephone Numbers

BDS main number .....	503-823-7300
DSC automated information line .....	503-823-7310
Building Code information .....	503-823-1456
Zoning Code information .....	503-823-7526
Permit information for electrical, mechanical, plumbing, sewer and signs .....	503-823-7363
Fire Bureau, propane permitting .....	503-823-3712
BDS 24-hour inspection request line .....	503-823-7000
Portland Business License Tax .....	503-823-5157
Bureau of Environmental Services.....	503-823-7093
Multnomah Co. Health Department.....	503-823-3400
City of Portland TTY .....	503-823-6868



For more detailed information regarding the Bureau's hours of operation and available services, visit our website at [www.PortlandOregon.gov/BDS](http://www.PortlandOregon.gov/BDS)

*Note: All information in this brochure is subject to change.*



# FOOD ON WHEELS: Mobile Vending Goes Mainstream





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## Executive Summary

Mobile food vending generates approximately \$650 million in revenue annually.<sup>1</sup> The industry is projected to account for approximately \$2.7 billion in food revenue over the next five years, but unfortunately, most cities are legally ill-equipped to harness this expansion. Many city ordinances were written decades ago, with a different type of mobile food supplier in mind, like ice cream trucks, hot dog carts, sidewalk peddlers, and similar operators. Modern mobile vending is a substantial departure from the vending typically assumed in outdated local regulations. Vendors utilize large vehicles packed with high-tech cooking equipment and sanitation devices to provide sophisticated, safe food usually prepared to order.

Increasingly, city leaders are recognizing that food trucks are here to stay. They also recognize that there is no “one size fits all” prescription for how to most effectively incorporate food trucks into the fabric of a community. With the intent of helping city leaders with this task, this guide examines the following questions: What policy options do local governments have to regulate food trucks? What is the best way to incorporate food trucks into the fabric of a city, taking into account the preferences of all stakeholders?

Thirteen cities of varying size and geographic location were analyzed for this study. Information on vending regulations within each of these cities was collected and analyzed, and supplemented with semi-structured interviews with city staff and food truck vendors.

Based on recurring themes and commonalities, regulations are grouped into four policy areas:

- **Economic activity:** this policy area provides insight into aspects of food truck regulation that could potentially enhance economic development, and looks at specific processes that can be barriers to market entry. Two areas of regulation that impact economic activity - streamlining and permit costs – are examined, with recommendations provided for each.
- **Public space:** mobile vending takes place on both public and private property, but public property presents a unique set of challenges. With the rapid expansion of food trucks, there is increased demand for limited space, which increases the likelihood of conflicting interests and encroaches upon the ability of stakeholders to maximize the advantages that public space can offer. Time constraints, proximity rules, and geographic limitations related to density are examined here, with recommendations provided for each.
- **Public health:** this is one of the most basic concerns regarding mobile vending. All stakeholders realize the need for comprehensive regulations around sanitation and food safety. These issues should be addressed within a regulatory framework that is cost-efficient, thorough, and results in a streamlined process for all stakeholders.
- **Public safety:** public safety is a key reason why many cities began regulating food trucks. Regulations examined here include private property, vending near schools, and pedestrian safety, with recommendations provided for each.

All of the recommendations in this guide include regulatory best practices that are currently in place in the selected cities. These best practices provide a balance of the concerns and interests of the four stakeholder groups identified in this report: (1) mobile vendors (this term is used interchangeably with ‘food truck’ throughout the guide) and food truck/industry associations, (2) restaurants and restaurant associations, (3) the community, and (4) city government.

In addition, five overall recommendations for cities looking to update their regulations for mobile vending are also included:

- 1. Hold Town Hall Forums and Private Meetings with Core Stakeholders.**
- 2. Encourage Dialogue and the Building of Relationships Among Competing Stakeholders.**
- 3. Implement Pilot Programs to Determine What Regulations to Adopt.**
- 4. Use Targeted Practices as a Way to Address Underserved Areas of the City.**
- 5. Identify Private Vacant Lots and Create Partnerships for Mobile Vendors to Gather and Vend in the Same Location.**

The recommendations included here are intended to be flexible enough to accommodate different circumstances, but logical enough to provide useful guidance to local leaders interested in integrating food trucks into city life for the benefit of both their residents and existing businesses.

# Introduction

Mobile vending has grown considerably in recent years, generating approximately \$650 million in revenue annually.<sup>2</sup> The rapid expansion of mobile vending, or food trucks, is attributed to residents' desire for quality, value, and speed; an appreciation for fresh, local food; and a preference for small and sustainable business. As such, mobile vending is also commonly used as a means to expand economic opportunity, and enrich communities by improving access to goods and produce not otherwise available through area merchants. The recent recession has also made food trucks an appealing option for hopeful restaurateurs, as they are an easier and more cost-friendly alternative to opening a brick and mortar restaurant. Many entrepreneurs have capitalized on the mobile vending industry, creating opportunities for self-sufficiency and upward mobility.<sup>3</sup>

The mobile vending industry is on pace to quadruple its revenue stream over the next five years, but unfortunately, most cities are legally ill-equipped to harness this expansion. Many city ordinances were written decades ago, with a different type of mobile food supplier in mind, like ice cream trucks, hot dog carts, sidewalk peddlers, and similar operators.

Modern mobile vending is a substantial departure from the vending typically assumed in outdated local regulations. Vendors utilize large vehicles packed with high-tech cooking equipment and sanitation devices to provide sophisticated, safe food usually prepared to order. Food trucks also take up a significant amount of space, require more safety and health oversight, cater to a different customer than the aforementioned types of mobile vendors, and have a more challenging relationship with brick and mortar restaurants and other vendors.

Advocates of stricter regulations generally assert that mobile vending congests sidewalks and streets, are unsanitary, and diminish urban quality of life. Regulations that currently impede mobile vending operations in U.S. cities commonly include public property bans, restricted zones, proximity bans, and duration restrictions. Supporters tend to argue that food trucks provide affordable, high quality food, rejuvenate public space, and fairly compete with size and open-air limitations. City officials have to balance these interests by regulating food and traffic safety without impeding the creativity and innovation of this popular market, but because the industry is so new, there are few examples of the best ways to amend existing provisions or adopt new laws.

The purpose of this guide is to offer best practices and recommendations to city leaders about how they can most effectively take advantage of the benefits of food trucks, while balancing the need to regulate growth and account for the concerns of key stakeholders: food trucks, restaurants, residents, and city government. It includes an analysis of food truck policies and regulations, specifically as they relate to four policy areas:

- Economic activity
- Public space
- Public health
- Public safety

The guide also includes recommendations on mobile vending policy and regulatory development for cities of all sizes. Using this guide, local leaders will be able to better understand the policy options local governments have for regulating food trucks, and determine the best way to incorporate food trucks into the fabric of a city while taking into account the preferences of all stakeholders.

## Selection of Cities

This guide analyzes mobile vending regulations across 13 cities, based on population density, presence of local food truck industry, and availability of mobile vending regulations. Figure 1 shows the cities that are included in the guide.

Very large cities like New York City and San Francisco were not included on the basis that conclusions drawn from analyzing their regulations would not be generalizable to most other cities.

Figure 1: Selection of cities

### Cities (population density)



## Stakeholders and Stakeholder Values

Stakeholders are identified as: (1) mobile vendors (this term is used interchangeably with food trucks here) and food truck/industry associations, (2) restaurants and restaurant associations, (3) the community at large, and (4) city government. For food truck vendors, it is assumed they would prefer an approach of looser regulations, clear, narrowly tailored laws, and streamlined procedures. For restaurants, it is assumed they favor stricter regulations that limit competition from food truck vendors. Although values are likely to vary among different community groups, it is assumed that — in general — community members hold quality of life concerns, including fear of negative spillovers (congestion, noise, pollution, etc.) as primary concerns, but also harbor a strong desire for community vibrancy. At the same time, community members generally prefer more food options to fewer. For city government, balancing the interests of stakeholders is a key priority, but so is a desire for economic vibrancy and revitalization, administrative ease, effective enforcement through regulatory clarity, and options that are budget friendly and cost-effective.

#### LOW POPULATION DENSITY

- Durham, NC
- New Orleans, LA
- Indianapolis, IN
- Atlanta, GA
- Austin, TX

#### MODERATE POPULATION DENSITY

- Cincinnati, OH
- Denver, CO
- Las Vegas, NV
- Portland, OR
- St. Louis, MO

#### HIGH POPULATION DENSITY

- Oakland, CA
- Washington, DC
- Boston, MA

## Economic Activity

This policy area provides insight into aspects of food truck regulation that could potentially enhance economic development, and specific processes that can be barriers to market entry. This section covers two topics that impact economic activity - streamlining and cost of permits for food trucks - and explores how these issues impact the various stakeholder groups.



### Streamlining

Regulations that dictate how centralized the mobile vending permitting process is can greatly impact mobile vendors' level of access to a city's economic activity, as they determine how easy or difficult it is to gain permits and licenses.

#### *Stakeholder Concerns*

For food trucks, one of the key objectives is to earn revenue. For brick and mortar restaurants, their goal is the same, and the level of competition food trucks create or are perceived to create can be of concern. For the community and city, creating opportunities for economic development is a key priority because it raises tax revenue, vibrancy, and creates a level of attractiveness for business and residents as well as for the city as a whole.

Having a more centralized process for permitting generally allows vendors greater ease in entering the mobile vending arena by reducing the number of city departments they must interact with and receive

approval from. Centralizing the process also reduces the number of intra-department communications. A streamlined process benefits both the mobile vendors and city staff directly, as it diminishes the amount of work for each. Although to be fair, it increases the level of work for whichever department is tasked with overseeing mobile vending permitting process. For the community, a centralized process is in their best interest as it helps to create more efficiency, a greater potential for economic development and ultimately, raise more revenue for the city.

### *Regulatory Trends*

The majority of the cities included here do not have a centralized permitting process in place; they use multiple city departments to permit and license various aspects of the mobile vending business. For instance, mobile vendors must apply for and receive a health permit that inspects the sanitation and food safety of a mobile vending vehicle, a traditional business license, and at times a zoning license and a safety permit. Although the number of permits and departments involved may vary, there is a trend of three to five departments and three to five permits that are typically involved in the permitting process for mobile vendors. Three cities use three departments, four use four or more. Only three cities have centralized the process into one city department for all city permits. Although these cities have centralized the part of the permitting process they control, there is still a need for a county health permit.

### *Recommendation*

Making the permitting process more streamlined has positive impacts on both mobile vendors and city staff. Austin and Cincinnati's streamlined permitting processes can be used as models by other cities looking to implement a more centralized mobile vending permitting process. Austin's comprehensive set of requirements can be found on the city's official government website, and contains everything the vendor needs, including:

- Mobile Food Vendor Permit form, including the cost of the permit,
- Checklist of additional permit requirements for mobile vendors (with exact descriptions of what is expected and who to contact if there are any questions),
- Mobile Vending Unit Physical Inspection Checklist (includes 14 requirements ranging from a current license plate to the specifications of the sinks),
- List of mobile food vendor responsibilities, including the signature of the certified food manager/food handler, the responsibilities of the central preparation facility (the commissary), and the restroom facility agreement.<sup>4</sup>

Austin's webpage is clear and concise. It has detachable forms and blank spots for the necessary signatures, with instructions regarding who to contact to obtain those signatures, specifics about the actual schematics of the truck components required for food preparation and handling safety, and perhaps best of all, nowhere does it suggest the reader refer to a subsection of some code or statute not included in the document.

As of January 2013, the Cincinnati Department of Health is solely responsible for the city's permitting process, application process, and payments associated with the city's mobile food vending.<sup>5</sup> This change was an effort to streamline the permitting process and give food truck owners a one-stop shop for all their licensing needs.

## Cost of Permitting

The actual cost of permitting plays a role in would-be mobile vendors' decision-making process about whether or not to start a business. One of the most basic barriers to entry for many potential entrepreneurs is start-up costs, which include permitting fees.



### *Stakeholder Concerns*

This issue impacts all stakeholder groups. On the vendor side, high permitting costs can serve as a barrier to entry. On the city government and community side, it can mean either an increase in revenue (from the actual permit) or a decrease in revenue (if cost deters some vendors from applying for a permit[s]). For mobile vendors, their self-interest is to keep the costs of permitting low so that there is an ease of entry into the market. For brick and mortar restaurants that believe mobile vendors are their competition, their interests lie in keeping the costs high enough to keep the number of mobile vendors low. City staff want to keep costs high enough to raise revenue, but low enough to keep the amount of mobile vendors growing. For the community, their interests are much the same as city staff - to find the balance between raising costs enough to maximize fees while not increasing them to the extent that they become a deterrent for mobile vendors.

### *Regulatory Trends*

For the cities included in this guide, the cost of permitting fees ranged from \$110 - \$1,500 annually. Although the amount of permits required and the cost for each vary depending on the city, the majority of cities fall within either the \$150-\$400 (five cities) or \$1,000+ range (five cities).

### *Recommendation*

Permit fees should be high enough to generate revenue that off-sets at least some of the costs produced by the presence of food trucks, but not so high that they discourage potential business owners from entering the market. The actual amount is contextually determined, as budgets and administrative expenses vary depending on the city.

Below are examples of permitting costs in three cities:

- Durham: \$75 for a yearly permit (not including health permit costs).
- New Orleans: Annual mobile vending permit fee - \$305.25, Occupational license - \$150.00, Mayoralty permit - \$100.25, Sales tax deposit - \$50.00, and Identification card - \$5.00, totaling \$610.50.
- St. Louis: \$500 mobile vending permit fee to the Director of Streets, a \$200 licensing fee (and \$20 for each employee) to the License Collector, and \$130-\$310 (depending on type of food served) for a health permit to the Director of Health.

## Public Space

Mobile vending takes place on both public and private property, but public property presents a unique set of challenges. Flexible access can lead to over-utilization, which in turn can produce unwanted congestion, pollution, and conflicts between different stakeholders trying to use the space at the same time.<sup>6</sup>

With the rapid expansion of the food truck scene, there is increased demand for limited space, which increases the likelihood of unwanted externalities and encroaches upon the ability of other stakeholders to maximize the advantages that public space can offer. In most cases, cities are tasked with managing this property, which includes balancing the needs of all interested parties, diminishing negative externalities, and otherwise preserving the integrity of the space. They are also trying to find appropriate ways to address the higher demand.



This section looks at three issues related to public space: time constraints, proximity rules, and geographic limitations related to density. A variety of approaches are recommended for dealing with these issues that balance stakeholder needs and take into account context and other practicalities.

### Time Constraints

One set of regulations that impacts the use of public space for mobile vendors is how much time food trucks are allowed to park and vend in one location.

### *Stakeholder Concerns*

Shorter time limits translate to less time for vendors to sell in one spot, which favors competing stakeholders like restaurants, since less time means less competition. Time limitations have both advantages and disadvantages for members of the public - less time means fewer choices for consumers but it also means less congestion and more parking options. For the city, the issue is also a mixed bag. Longer time limits mean vendors are easier to track down, since they are in fewer spots throughout the day. At the same time, longer time limits have the potential to reduce patronage at area restaurants. Moderate time limits, such as four to five hours, are often be the preferred approach for cities, since they usually produce the most balanced results (from a stakeholder perspective).

### *Regulatory Trends*

Most of the cities included in this guide favor moderate or less restrictive parking durations. Five cities have no time limits, while three currently have durations of 45 minutes or less. The rest have provisions of four or five hours. It is worth noting that cities with more restrictive limits often have lax enforcement of these regulations.

### *Recommendations*

Time limits of four hours or longer are recommended. Vendors need approximately one hour to set-up and pack-up once they are done with selling. As a result, anything less than four hours leaves vendors with only one to two hours of actual vending time. Moreover, it is more difficult for city staff to track food trucks for safety or health purposes when they are in several locations throughout the day. However, an unlimited approach may not be feasible in denser regions, where restaurants and other established businesses, pedestrian traffic, and congestion are more significant factors. This four hour or more time limit is included in regulatory amendments and council suggestions of various cities, including Oakland and Durham.

Oakland has a five hour time limit. Originally, the city had a two hour limit for one location. This left little time to actually sell food before having to move again. Vendors complained about the restriction, and were successful in getting it changed to five hours.<sup>7</sup> Originally, Durham had a regulation on the books that required mobile vendors to move 60 feet every 15 minutes. The police did not enforce this provision because the number of trucks was not large enough to create much conflict with other stakeholders. As the number of trucks started to increase in 2010, push back began, particularly among restaurants that insisted the police enforce the 15-minute rule. This prompted the city to consider amending the rules to more effectively address modern vending. The Town Hall meetings on the topic were well attended, not only by key stakeholders but also by members of the public. Durham is a town with strong public support for small businesses, and regulations that would make vending easier were favored. In late 2012, the rules were amended, and included a repeal of the 15-minute provision. No additional time constraints were adopted, and as a result, food trucks can vend in one location for an unlimited amount of time.<sup>8</sup>

Unlike Durham and Oakland, Atlanta's provision of 30 minutes in no more than two locations per day has not been successfully challenged. Since the 2013 NCAA Final Four basketball game, vending on public property is completely prohibited. Before this, vending in public space was very limited, based on history that dates back to the 1996 Summer Olympics in Atlanta and the more recent contracting

out to a private company the responsibility of mobile vendor management.<sup>9</sup> Virtually all mobile vending takes place on private property, where the 30-minute rule does not apply.

## Proximity Restrictions

This refers to regulations that designate a certain amount of distance that must be maintained between food trucks and other establishments, people, or infrastructure. This section is primarily concerned with the distance restrictions between food trucks and restaurants that impact the use of public space. The limits that concern distance from pedestrians or infrastructure are addressed in other parts of this guide. The cities included here have adopted a variety of proximity requirements.

### *Stakeholder Concerns*

Greater distance requirements favor restaurants and other established businesses, and are a mixed bag for residents for the same reasons discussed under time constraints. Larger proximity rules disadvantage mobile vendors because it reduces the number of places to sell, particularly where clusters of restaurants exist, which are often denser areas with more pedestrian traffic. Many cities prefer a moderate approach in regards to proximity restrictions, since such regulations usually balance competing stakeholder needs most effectively. Unlike parking, there are no tracking advantages related to distance requirements, but such regulations do impact where vendors conduct their business, which means the city still has to deal with congestion and other spillover concerns, particularly in denser regions.

### *Regulatory Trends*

Similar to time constraints, the cities included here have largely moderate or lenient proximity restrictions. Six or seven have either no restrictions or relatively short distances, and four of the cities occupy the middle ground, with 150-200 foot requirements. Only one, New Orleans, has a restriction of 600 feet. New Orleans has a proposal to shorten the distance to 50 feet, but there has been resistance to this proposal from some city council members and the Louisiana Restaurant Association.<sup>10</sup>

### *Recommendations*

Proximity restrictions should be no more than 200 feet at the high end. Density issues may call for a tiered structure, or for abandoning proximity altogether. One of the problems with adopting an explicit distance rule is that a “one size fits all” approach ignores context. Three hundred feet may make sense in less dense areas of a city, but such a distance is impractical in very dense neighborhoods. A city right-of-way, with multiple restaurants on both sides of the street where the distance between each side may be less than 300 feet, makes the area entirely off limits to mobile vending. As such, cities may want to loosen or abandon proximity rules in dense neighborhoods with a great deal of commercial and residential activity. A tiered model, where the distance requirements are shortened for denser neighborhoods and widened for others is also an option.

As the food truck scene has expanded within the last few years in St. Louis, conflicts between restaurants and food trucks have surfaced. In order to quell the rising tension, the St. Louis Department of Streets enacted a 200 foot rule.<sup>11</sup> Durham has adopted a 50 foot rule.<sup>12</sup>

## Geographic Limitations Associated with Density

Another set of regulations relate to whether vending is permitted in particular segments of public space. Like proximity restrictions, these provisions concern access to fixed locations.

### *Stakeholder Concerns*

Like the above issues, the more restrictive provisions advantage established businesses like restaurants, while working against the interests of food trucks. Constraints on the number of places open for selling tend to be more prevalent in denser areas of cities due to the much greater number of players utilizing the space at the same time. These are usually core downtowns where a large number and variety of established businesses and residences are located in close proximity to each other within a relatively limited area. Again, for cities, moderate approaches are generally the best at balancing stakeholder interests. Like parking durations, tracking issues come up here as well. Limiting vending to certain locations makes it easier for cities to find vendors, but might hinder economic growth and opportunity.



### *Regulatory Trends*

Of the cities included here, most currently embrace a patchwork approach, wherein vending is limited to certain zones, districts, parking spaces, or limits on operation in the Central Business District (CBD). Three have lenient provisions, where few public spaces are off limits, while another three are on the more restrictive side, with outright bans on public space or CBD vending.

## Recommendations

The greater the density of the area, the greater the case for more restrictions, but an outright ban on all mobile vending is not suggested unless the circumstances are exceptional. For a city like Durham, heavy-handed zoning constraints make little sense, as the interests of other stakeholders are only modestly compromised compared to denser areas, there are fewer negative spillover threats, city residents are given more choice without substantively higher safety concerns, and vendors are given more flexibility to choose where to operate. As a result, street right-of-ways and core downtown parks are open for vending.<sup>13</sup> In denser cities, the compromises that other stakeholders must make and the risk of negative externalities are increased, suggesting a more moderate regulatory framework should be implemented that requires all parties to relinquish some freedoms without entirely excluding them from the space. One option is the approach taken by Denver, where only the densest section of downtown is off limits to food trucks. Vendors are barred from selling in a section of the southwestern corner of downtown, which is roughly seven by nine blocks. Vendors must also maintain a 300 foot distance from all public parks, unless a special event is taking place, and then they must obtain permission from the city to participate.

Another approach is a lottery or first-come, first-serve system that allows a restricted number of parking spaces or sections of right-of-way to be set aside for mobile vending. Las Vegas currently has a pilot program that adopts a version of this (three spaces are being set aside downtown for food trucks only).<sup>14</sup> Washington, DC is also in the process of establishing a lottery system to increase efficiency and safety, and to balance the competing needs of residents. There could also be higher permit or parking fees associated with more heavily trafficked areas.

Areas where vending is allowed must be clearly delineated and easy to decipher. Several cities have regulations that make it difficult to easily discern permitted regions from unpermitted ones. Regulations that clearly define permitted areas are needed. Distinctions between public and private regulations should also be clear and transparent. A map that explicitly labels the areas where vendors are allowed to operate would be a helpful tool for all stakeholders.

If the political climate or density issues make it difficult to relax restrictions on public space, cities could consider making private space in less dense areas easier for vendors to access. Atlanta has a unique history that has produced provisions that greatly restrict vending on public property, and most recently, an outright ban by the Mayor Kasim Reed. To alleviate the impact of this restriction on mobile vending, Councilmember Kwanza Hall and others have worked to make vending on private property easier. A provision that originally required food trucks to maintain a distance of 1,500 feet from restaurants when at least two mobile vendors are selling on private property was amended to shorten the distance to 200 feet.<sup>15</sup> Trucks have adapted to the ban on public property by moving into private space, and this has kept mobile vending alive in Atlanta.

# Public Health

One of the most intrinsic and logical concerns regarding food trucks, and one that has been a basic consideration since their inception, is public health. All stakeholders realize the need to address sanitation and food safety. The role of health departments and commissaries should be continually reevaluated to address these concerns within a regulatory framework that is cost-efficient, thorough but not onerous, and results in a streamlined process with outcomes that provide for the wellbeing of all stakeholders.

## Sanitation

Sanitation refers to food trucks' proper cleaning of preparation utensils and disposal of garbage, wastewater (gray water) and remnants of grease traps. Unlike the variety of procedural approaches taken by cities within the sphere of public space, the guidelines adopted for sanitation tend to be similar across cities.

Atlanta's rules provide a typical example of the sanitation provisions that exist in most cities. Mobile food units must have a trashcan that is at least 30 gallons, and it must be emptied at the commissary. Two sinks are required - a three-compartment equipment sink (for washing dishes, etc.) and another sink for washing hands. A wastewater tank that has a 15 percent larger capacity than the potable water tank is also required. To prevent contamination, the connections for each must be distinguishable, and the wastewater tank must be lower than the potable tank.<sup>16</sup> Atlanta is also typical of many cities in that the health code is state law. As such, cities are unable to craft law; they can only enforce provisions established at the state level.

### *Recommendation*

Cities looking to adopt sanitation regulations for mobile vendors should adhere to the standard requirements in cities with an already established food truck industry. These regulations can be found on almost any city government website; Austin has particularly clear processes.<sup>17</sup> Since many cities are unable to enact their own sanitation laws, they may want to articulate their need and concerns to the state legislature when appropriate.

## Food Safety

Not surprisingly, the specifics of food safety do not vary that much from city to city. The guidelines for the cities profiled in this guide are common sense and fairly straightforward.

For example, in Atlanta, mobile vendors are mandated to have a "Certified Food Safety Manager" (CFSM). The CFSM could be the owner or an operator; whoever is selected must complete a food safety-training program and pass a "professionally validated" CFSM exam. The mobile unit must always have a designated Person in Charge (PIC). This will be the CFSM when present. When absent,

the CFMSM must designate someone else as the PIC. During Health Authority inspections, the PIC may be asked to demonstrate their “knowledge of foodborne disease prevention,” for example. The Food Code lists a variety of ways this can be shown, such as demonstrating knowledge of how to properly handle food, among other things.<sup>18</sup>



### *Recommendation*

State laws often require mobile vendors to adhere to the same food safety regulations that are applied to brick and mortar restaurants. This is an effective way to promote proper food handling and accountability. Many vendors report that they actually appreciate the standards because they serve to combat the “roach coach” stereotype. Brian Bottger, a food truck vendor in Durham, is one of these operators. He likes that he can confidently tell patrons that his truck is held to the same health standards as restaurants.<sup>19</sup>

## Role of Commissaries

One of the most promising and more diversified aspects of mobile food vending is the commissary, a food truck “home base” of sorts. Commissaries are fixed location kitchens where food must be prepped before being loaded onto the truck for cooking and selling. They often operate as storage for various ingredients as well.

### *Stakeholder Concerns*

All stakeholders can benefit from the appropriate utilization of commissaries. If more than one truck may operate out of a commissary, city employees, whether collecting licensing and permit documents and fees, or performing routine inspections for maintaining sanitation and public health standards, have fewer places to visit and can more easily streamline their permit review and inspection process.

Food truck owners can reap the benefits of the economies of scale that commissaries provide. Compliance with many of the regulatory burdens food trucks face are less expensive when shared by several owners. Mobile vendors can also be assured that they are doing their due diligence with regards to regulations, which if not properly followed could mean large fines and even the possibility of being shut down. Commissaries provide new vendors with a central facility to get all the information they need to operate. This can save a significant amount of time and cost, especially when city business codes are difficult to track down. They may also benefit by not having to shoulder the full responsibility for compliance; if they sign a contract with a commissary, it may become the commissary operator's responsibility to see that compliance is achieved.

Commissaries provide brick and mortar restaurant owners with the assurance that food trucks are being held to the same standards and inspections as they are. Lastly, the general public can rest easy knowing that commissaries cut down on the number of unregulated mobile vendors and that health concerns are addressed in a thorough and efficient manner (when considering taxpayer monies spent on health departments).

### *Regulatory Trends*

All of the cities included in this guide have a commissary requirement. Boston requires proof that food trucks are serviced by a mobile food vending commissary and that mobile vendors keep accurate logs indicating that the food truck is serviced at least twice daily by a mobile food commissary for all food, water and supplies, and for all cleaning and servicing operations. In Washington, D.C., all vendors must maintain access to an approved depot location. A copy of the license for the service support facility and/or a recent inspection report is required to be presented. In St. Louis and Denver, trucks must operate from a commissary and report there once a day to clean all supplies and servicing operations.

### *Recommendations*

Mobile vendors should embrace the use of commissaries. It is recommended that cities adopt an approach similar to the ones employed in Austin and Durham, where all food trucks must have a contract with a commissary, but more than one food truck may be associated with a single commissary.<sup>20</sup> Food trucks may also negotiate with restaurants to utilize (and pay) them as places to dispose of waste. These contracts foster a sense of community and keep conflicts to a minimum. In Durham, multiple mobile vendors are also able to use a single commissary.

This approach best satisfies the concerns of all stakeholders. The regulation is not terribly onerous to the food truck operators, but still ensures food safety, which the public and the city may be concerned about. It helps give the impression that food trucks are being held to the same standards, which restaurants appreciate, and makes it easier for local food safety enforcement officials to do their job.

# Public Safety

Public safety is a key reason why many cities began regulating food trucks. Issues around public safety include private property, vending near schools, and pedestrian safety.



## Private Property

Private property options for mobile vendors create opportunities for businesses to extend their market reach, particularly for denser cities or those with very little public space (consider the Atlanta case discussed under public space). The cities included here have adopted a variety of regulatory models to address private space. In some cases, they practice a more informal approach, allowing food truck operators to gain a private space permit and conduct business without further regulatory strings attached. Others restrict mobile vending operations solely to private property. Equally important are existing zoning codes applied to private property that may or may not be zoned for vending.

### *Stakeholder Concerns*

Standard public safety practices used in other city regulatory affairs (within the realm of private property) ought to lead the dialogue and development of relevant rules that empower proprietors to observe

and enforce appropriate safety measures on their property, and communicate those measures with mobile vendors. For cities, responsibility of property maintenance is lessened and is likely to fall on the shoulders of vendors and property owners, who will determine ways to address sanitation, safety, and property upkeep. Mobile vendors generally appreciate the flexibility that private space has to offer, e.g. fewer time restrictions and less government involvement in their daily operations.

### *Regulatory Trends*

When examined through the lens of public safety, the cities selected have adopted a variety of regulatory models to deal with private property. Seven cities had rules regarding private property. Two cities lacked specifics on the issue, perhaps because they do not allow vendors to operate in private space in general. Cities that allow the use of private property for mobile vending have designated specific private zones where food trucks can operate to ensure public safety.

### *Recommendations*

The adoption of more lenient regulatory language is generally the preferred approach for food trucks on private property, with the exception of denser regions. Owners of private property have the power to control what takes place on their land, including the ability to exclude whomever they choose. The issue at stake is not how to best balance the needs of various parties that have access to the land, as it is with public space. Instead, the emphasis shifts to reducing any negative externalities that might spillover onto adjacent or neighboring properties, particularly if an owner grants permission to multiple vendors.



As such, a regulatory framework that is generally less restrictive than for public property is appropriate as long as the owners grant permission for their land to be used by mobile vendors. However, since there is a greater danger of negative externalities when private property is located in denser areas, a modestly more regulated structure may be called for within these regions.

In Indianapolis, few regulations limit mobile vending business on private property. While the time-frame for vending on public space is limited to between 10am and 6pm, a business can get a permit for operating on private property and simply park at parking meters for the same rate as personal vehicles.<sup>21</sup> The majority of Portland's mobile vending occurs on private property, particularly surface parking lots.<sup>22</sup> A zoning permit may be required for development associated with a mobile vending cart, such as changes to an existing parking area, landscaping, and drive-through facilities. Vending carts over 16 feet in length, with or without wheels, are considered Heavy Trucks by the zoning code, and are not allowed in certain zones.<sup>23</sup>

## Vending Near Schools

Mobile vendors encounter several public safety issues when deciding to operate near schools. Issues of concern include traffic-related safety, increased chances of interaction with predators that may be waiting for children to step off public property, and whether the food offered by mobile vendors meets school food safety standards.<sup>24</sup>

### *Stakeholders*

Mobile vendors are beginning to recognize the potential opportunity to expand the food options available to local secondary schools and simultaneously capture a new, steady stream of customers, but they may be met with opposition from school administrators and parents who see their presence as a threat to safety and may view their menu options as potentially unhealthy. Cities looking to regulate vending near schools must determine the best precautionary measures in terms of distance requirements that mobile vendors must abide by.

### *Regulatory Trends*

Five of the cities included in the guide have regulations around vending near schools. The regulations emphasized specific distances from schools that are intended to keep students from venturing off campus to patronize mobile vendors, and maintain safety standards for neighboring schools and communities. All other cities have no specific rules around this, perhaps indicating that this is not an issue in their jurisdictions.

### *Recommendations*

Restrictions on operating during school hours are recommended, and mobile vendors should be required to maintain farther proximity from schools compared to restaurants, keeping density in mind. The time restriction is mostly a health-related issue, while the proximity suggestion is largely motivated by safety concerns. The framing of regulations surrounding mobile vendors and schools should be focused on protecting children during school operating hours. This approach keeps vendors from selling to students without adult supervision, but still allows them to benefit from afterschool activities

such as games, competitions, and concerts, where adults are more likely to influence food consumption decisions. However, proximity requirements should not handicap vendors in denser areas from selling in viable spaces that happen to be closer to schools.

In Indianapolis, vendors are prohibited from operating within a distance of 1,000 feet (roughly 0.2 miles) of any part of a public or private grade or junior high school grounds while school is in session. In Durham, a special temporary permit can be obtained for mobile vendors to operate at non-profit or civic events held on public property such as a school.

School districts that want to expand their food options, but wish to do so with minimal budgetary impact should work with city officials to create school vending permits for a limited number of vendors. Designated curb-side parking (which is not adjacent to a main road) could reduce many public safety concerns, particularly if students are generally allowed to roam the school parking lot where the trucks would operate. As long as they continue to comply with the city's food safety standards, this could be a viable option for city and school officials.

## Pedestrian Safety

Mobile vendors move from location to location, coming in close contact with pedestrians at intersections and street corners every day. While some city ordinances have distance-from-pedestrian/sidewalk requirements (e.g. Durham has a 4-foot rule), the majority of the cities examined here have no such language in their regulations. Pedestrian safety may be part of a broader regulatory approach in many cities, but that focus often lacks emphasis or enforcement for mobile vendors (although it may be taken up in other sections of city ordinances). Pedestrian and intersection safety measures be included in food truck regulations, as they affect all potential food truck patrons.

# Additional Recommendations

In addition to the recommendations included under each policy area, there are other, more general recommendations to help cities adopt new vending policies, amend existing policies, build stakeholder collaboration, and harness the potential for economic growth through the mobile food industry. Five of these recommendations are discussed in detail below:

## **1. Hold Town Hall Forums and Private Meetings with Core Stakeholders.**

Durham decided to embrace a very inclusive approach to their ordinance restructuring. The city brainstormed initial ideas internally then presented the draft suggestions to the public for feedback. They also had private meetings with individual stakeholders to allow them to speak freely without fear of backlash. This tactic was particularly useful for restaurants in a food truck friendly city like Durham. Any fears they may have been afraid to share in Town Hall meetings could still be articulated to decision-makers. The weight of opinion worked against restaurants in this context, but they were still brought to the table.

## **2. Encourage Dialogue and the Building of Relationships Among Competing Stakeholders.**

Cities should look for ways to encourage relationships between the various stakeholders. At the heart of proximity rules are concerns that restaurants (and other established businesses) have about unfair competition. They pay expensive monthly rents and property taxes, but they are also engaged with the community. Because they are stationary, most restaurants see themselves as part of the community fabric. They create employment opportunities and care about neighborhood safety and aesthetics. Some view mobile vendors as profit-driven, fly-by-night operators with few or no ties to the community. Conversely, mobile vendors often feel that restaurateurs are fearful of innovation in food culture.

Collaboration between these stakeholders is something to strive toward, and cities can play an important role in spearheading dialogue between these groups. Conferences, forums, or meetings could be called with stakeholders from both sides invited to the table in a spirit of cooperation, with the intent of encouraging them to see each other as collaborators rather than competitors more often than they currently do. It could also encourage voluntary compromise help craft solutions that balance the needs and concerns of both parties. Cincinnati has achieved this, to some degree. Food Truck Alliance President Matt Kornmeyer explained that food trucks in the city, voluntarily maintain a 100-foot distance from neighboring restaurants as a sign of respect to brick and mortars, and as a preparatory measure.<sup>25</sup>

## **3. Implement Pilot Programs to Determine What Regulations to Adopt.**

Pilot programs are flexible, encourage innovation, and can help uncover and address issues unique to particular communities. They are usually implemented on a small scale, so they do not create a sudden, large burden on an already existing network, and they provide insight that can inform the decision-making process before regulations are made into law. Their flexibility and emphasis on experimentation make them an especially useful tool for new industries. Pilot programs are being used in a variety of cities, including Oakland, and are recommended for cities with a relatively new food truck scene or a rapidly expanding one.

In 2001, the Oakland City Council created the Pushcart and Vehicular Food Vending Pilot Programs.<sup>26</sup> The pilot program was created to promote the health, safety, comfort, convenience, prosperity, and general welfare by requiring that new and existing pushcart food vendors provide residents and customers with a minimum level of cleanliness, quality and safety.<sup>27</sup> This program issued 60 permits and required a 10-step validation process, including a complete application, proof of Business Tax Certificate, and a photocopy of a valid driver's license.<sup>28</sup> The program restricted the use of these permits to centralized districts because of the added desire to infuse economic development into the city.<sup>29</sup> This pilot program is still active.



#### **4. Use Targeted Practices as a Way to Address Underserved Areas of the City.**

The issue of food accessibility has been linked to poverty, decreased public health, and quality of life.<sup>30</sup> Moreover, in recent years, food deserts have become an issue of public concern. Although the cities included here are not directly using mobile vending to combat food deserts, some are employing a targeted strategy to get food trucks into various areas of their cities, outside of the core downtown districts, some of which are underserved by brick and mortar restaurants.

Initially, the 2012 Cincinnati City Council approved an ordinance that declared a mobile vendor could not sell food on the curbside or right-of-way. Now, seven zones exist in strategic places around the city, up from four in 2011 per the recommendation of the Department of Community Development.<sup>31</sup>

Denver has actively considered several issues that might impact or encourage economic development. These include whether food truck clustering could be used to combat food deserts, the ability of food trucks to activate underutilized space (like surface parking lots), and food trucks as restaurant incubators in underserved areas.<sup>32</sup>

**5. Identify Private Vacant Lots and Create Partnerships for Mobile Vendors to Gather and Vend in the Same Location.**

The use of private space has been used to create several food truck centers that increase economic activity in various West Coast cities. For example, Portland is known as the food truck capital of the world. This type of clustering can create hot spots for loyal customers, as well as an opportunity for mobile vendors to gain new clients. For city government, it can create an ease of regulation and enforcement by focusing attention and resources on specific parts of the city.

While Portland has a number of the more traditional mobile food trucks around the city, the majority of their mobile vending occurs on private property, particularly surface parking lots and vacant lots.<sup>33</sup> Portland uses food truck centers to create economic vibrancy within various parts of the city. In 2009, the city proposed the use of vacant lots as pods, or areas for food trucks to cluster. The idea was to use vacant lots as catalysts for economic development, deterring blight and encouraging vibrancy in the process. It is important to note that while many of the food trucks (what they refer to as food carts ) are mobile, the city has several stationary mobile units. These units are moveable, but primarily remain on private property.<sup>34</sup> Many of the pods are hosts to more permanent vending units, particularly in downtown. They are still classified as mobile though because as long as the food carts are on wheels, they are considered vehicles in the eyes of the law, and are therefore exempt from the building code.<sup>35</sup>

Atlanta often uses private surface parking lots to encourage mobile selling. Atlanta has also had a very active and successful food truck association, the Atlanta Street Food Coalition, which does an admirable job mobilizing vendors and keeping public and private partners informed.

# Conclusion

Mobile vending is not just a passing fad. However, it is important to recognize that there is no one size fits all prescription for how best to incorporate food trucks into the fabric of a community. Many characteristics contribute to the complexity and vibrancy of a city, including political climate, state laws, demographics, and the existing restaurant industry. With this in mind, the recommendations included here are intended to be flexible enough to accommodate different circumstances, but logical enough to provide useful guidance. They can serve as a road map that will help cities establish a regulatory framework best suited to their unique circumstances and that takes into account the whole spectrum of stakeholder needs and concerns.



## About this Publication

Research for this guide and the original draft of the document were completed by graduate students at the George Washington University Trachtenberg School of Public Policy and Public Administration. Contributors include Anju Chopra, Malia Dalesandry, Garrett Jackson, Ana Jara, and Stephen Tu. These students worked in partnership with J. Katie McConnell, Brett Common, and Christiana McFarland at the National League of Cities to conduct an analysis of food truck regulations in cities across the country. The final report was edited by Christiana McFarland and Emily Pickren at NLC.

The National League of Cities is the nation's oldest and largest organization devoted to strengthening and promoting cities as centers of opportunity, leadership and governance. NLC is a resource and advocate for more than 1,600 member cities and the 49 state municipal leagues, representing 19,000 cities and towns and more than 218 million Americans.

NLC provides research and analysis on key topics and trends important to cities, creative solutions to improve the quality of life in communities, inspiration and ideas for local officials to use in tackling tough issues and opportunities for city leaders to connect with peers, share experiences and learn about innovative approaches in cities.

## Acknowledgements

Special thanks to the George Washington University Trachtenberg School of Public Policy and Public Administration faculty and staff, particularly Elizabeth Rigby and Patrick Besha. Special thanks also go to all the interviewees - city staff, food trucks owners, and city officials for their candid and informative perspectives regarding the regulatory concerns and opportunities for their cities.

# Appendix

## *Selection of Cities*

This report analyzes mobile vending regulations across a range of cities. First, cities with existing food truck industries (51 in total) were identified, based on information from the Washington, DC Department of Transportation (DDOT). Each city's context and food truck policy/regulatory environment was reviewed, and data was gathered on each city's region, population density, level of the local food truck industry, and availability of mobile vending regulations. The 51 cities were stratified into three groups based on population density. Specifically, we developed a three-tiered density structure in which cities were classified as:

- Low density (cities as those with a density range of 3,500 persons per square mile (ppsm) and below)
- Moderate density, (cities with 3,501-7000 ppsm)
- High population densities (cities with 7,001 ppsm and above)

Ultimately, the sample of cities drawn ranges in population size from 279,641 (Durham) to 827,609 (Indianapolis), in density from 936 ppsm (Durham) to 12,793 ppsm (Boston). Very large cities like New York City (27,000 ppsm) and San Francisco (17,000 ppsm) were not included on the basis that conclusions drawn from analyzing their regulations would not be generalizable to most other cities.

Between three and five cities from each population density tier were selected for a total of 13 cities. The selection process focused on cities with a food truck presence, then cities were divided into geographic regions, and several cities were chosen from those regions. Context and background were also taken into account. That is, cities with mobile vending regulations and histories that insufficiently highlighted particularly noteworthy regulatory conflicts or solutions were ruled out in favor of those that lent themselves better to examination of recurring themes and common pitfalls.

With such an approach, it is possible that a city regulation that was uniquely innovative or informative in some way was overlooked. The low, medium and high density methodological structure, paired with the regional breakdown, is an attempt to minimize this risk.

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# Regulating Food Trucks

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ISBN: 978-1-61190-178-8

## Foreword

The rise in popularity of specialty or gourmet food trucks (where at least some preparation is done in the vehicle) has led to recent code revisions in communities eager to acknowledge this business model but cautious about food safety, traffic, and neighborhood compatibility. While the trend has been most visible in a select number of large cities, it is spreading rapidly through many large and small metropolitan areas across the country.

Mobile food vending is increasingly being recognized as a community economic development tool. Food trucks, trailers, and carts (collectively known as mobile food units) provide opportunities for entrepreneurs and small businesses; add interest, vibrancy, and activity to streetscapes and sites; and expand food access in areas underserved by traditional restaurants. Balanced regulations and permitting procedures can help ensure that food trucks have ample vending opportunities within a jurisdiction without posing a threat to brick-and-mortar restaurants, blocking the public right-of-way, or creating a nuisance.

Localities often adopt ordinances that address mobile food vending on both public and private property. Sometimes this distinction between public and private locations results in zoning standards for food trucks on private property, while standards for vending on public rights-of-way are addressed in the business licensing, streets, or public health sections of local codes.

Most localities limit food trucks to nonresidential districts, and it is common to establish distancing requirements from existing restaurants, residential districts, or other vendors. Most also enact operational standards such as limitations on hours of operation, mandatory access to restrooms, or noise or sanitation requirements to minimize potential negative impacts. Some ordinances also provide for food truck courts, where multiple food trucks gather at one site to provide more of a destination experience.

While not addressed in this packet, it is also important to note that all mobile food unit operators must also comply with local public health department regulations for food service establishments, whether specific to mobile food vendors or generally applicable to all food service.

The first section of this packet includes a short article from APA's *Zoning Practice* and links to two other key reports offering regulatory recommendations for food trucks. The following section provides examples of municipal guides to help potential mobile food vendors navigate local zoning regulations. The packet also includes several staff reports discussing proposed zoning or licensing amendments for food trucks. Finally, the packet showcases the wide range of ways in which local communities are regulating food trucks with examples of both local zoning provisions as well as sample licensing provisions for mobile food units and vendors on both public and private properties.

### Articles and Reports — APA Resource

Arroyo, Rodney and Jill Bahm. 2013. "Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending." *Zoning Practice*, September.

- Discusses the increasing popularity of mobile food units and how communities can address them through zoning, including definitions, location, duration, type of goods for sale, clustering, waste disposal, and numerous other topics.

### Articles and Reports — Online Resources

National League of Cities. 2013. *Food on Wheels: Mobile Food Vending Goes Mainstream*. Washington, D.C.: National League of Cities.

[www.nlc.org/Documents/FoodTruckReport.pdf](http://www.nlc.org/Documents/FoodTruckReport.pdf)

- Analyzes regulatory trends and recommends specific regulatory approaches for mobile food units and vendors.

Frommer, Robert, and Bert Gall. 2012. *Food Truck Freedom: How to Build Better Food Truck Laws in Your City*. Arlington, Va.: Institute for Justice.

[www.ij.org/food-truck-freedom](http://www.ij.org/food-truck-freedom)

- Recommends a regulatory approach for mobile food units and vendors that focuses on public health and safety.

### Municipal Guides

Denver (Colorado), City and County of. 2012. "Food Truck Guide: A Multi-Department Guide."

- Guide to help potential operators understand applicable licensing and zoning standards for mobile food vending.

Georgetown (Texas), City of, Planning Department. 2013. "Customer Bulletin # 104 – Mobile Food Establishments." May 17.

- Memorandum to customers explaining existing city code provisions allowing for a mobile food establishment as a temporary use within the city limits, as well as county and state requirements.

Raleigh (North Carolina) Planning & Development, City of. 2011. "Food Truck—Quick Reference Guide."

- A user-friendly guide to assist in explaining the permitting process and regulatory framework around the use of food trucks.

San Diego (California), City of, Department of Development Services. 2014. "How to Obtain a Permit for a Mobile Food Truck." Information Bulletin 148.

- Summarizes the approval process and submittal requirements for mobile food trucks.

San Francisco (California), City and County of. 2011. "Frequently Asked Questions — Street Food: Regulations for Mobile Food Facilities."

- Guide to help potential operators understand the permitting process for mobile food facilities on private property.

## Staff Reports

Louisville (Colorado), City of. 2014. "Agenda Item 8B: Ordinance No. 1665, Series 2014—An Ordinance Amending Title 17 of the Louisville Municipal Code to Define Food Trucks, Food Carts, and Mobile Retail Food Establishments and Adopt Regulations Addressing Their Allowed Operations Within Louisville." Staff Report, May 20.

- Staff report discussing regulatory amendments to sanction and control mobile food units on public and private property.

San Diego (California), City of. 2014. "Amendments to the Municipal Code and Local Coastal Program Related to Food Trucks." Report to the Planning Commission, January 9.

- Staff report discussing regulatory amendments to sanction and control a wider range of mobile food units on public and private property.

St. Petersburg (Florida), City of, Development Review Commission. 2014. "LDR 2013-05: Text Amendment to Formally Recognize, Classify and Regulate Mobile Food Trucks Within the City Code." May 7. Also: Planning and Economic Development Department. 2013. "City File LDR 2013-05: Amendment to the Land Development Regulations ("LDRs"), Chapter 16, City Code of Ordinances." Staff Report to Development Review Commission, December 4.

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## Zoning Standards\*

Aurora (Colorado), City of. 2014. *Ordinance No. 2014-20: A Bill For An Ordinance to Add Section 146-1254 and Amend Section 26-347 of the City Code of the City of Aurora, Colorado, Relating to Mobile Food Trucks.*

- 2014 ordinance establishes a pilot program temporarily suspending restrictions on mobile food vendors in certain areas of the city to allow review of impacts before permanent code changes. Allows for operation on private and public property; establishes distancing requirements from brick and mortar restaurants and residential districts.
- See city webpage, "Mobile Food Vendor Toolkit," at <https://www.auroragov.org/DoingBusiness/SmallBusinessResources/NewBusinessVentures/MobileFoodVendorToolkit/index.htm> .

Austin (Texas), City of. 2015. *Code of Ordinances*. Title 25, Land Development; Chapter 25-2, Zoning; Subchapter C, Use and Development Regulations; Article 4, Additional Requirements for Certain Uses; Division 2, Commercial Uses; Section 25-2-812, Mobile Food Establishments. Tallahassee, Fla.: Municipal Code Corporation.

- Defines *mobile food establishment* and provides standards addressing location and operations for establishments on private property. Allowed in most commercial and industrial districts; establishes distancing requirements from residential and restaurant uses. Authorizes neighborhood associations to petition for additional locational restrictions.
- See next section for licensing requirements.
- See city webpage, "Mobile Food Establishments," at <http://www.austintexas.gov/department/mobile-food-establishments>.

Boulder (Colorado), City of. 2015. *Revised Code*. Title 9, Land Use Regulation; Chapter 9-6, Use Standards; Section 9-6-1, Schedule of Permitted Land Uses. Section 9-6-5, Temporary Lodging, Dining, Entertainment, and Cultural Uses; Subsection 9-6-5.d, Mobile Food Vehicle Sales. Chapter 9-16, Definitions. Also see Title 4, Licenses and Permits; Chapter 4-10, Fees; Section 4-20-66, Mobile Food Vehicle Sales. Tallahassee, Fla.: Municipal Code Corporation.

- Defines *mobile food vehicle* and provides standards addressing location and operations restrictions for vehicles on public and private property. Establishes distancing requirements

from other mobile food vehicles when vending in the public right-of-way, residential districts, and restaurants.

- See city webpage, "Mobile Food Vehicles," at <https://bouldercolorado.gov/tax-license/mobile-food-vehicles>.

Columbia (South Carolina), City of. 2015. *Code of Ordinances*. Chapter 17, Planning, Land Development and Zoning; Article III, Zoning; Division 1, Generally; Section 17-55, Definitions. Division 8, District Descriptions, Use and Dimensional Regulations; Section 17-258, Table of Permitted Uses; part 7(j). Tallahassee, Fla.: Municipal Code Corporation.

- Defines *food truck* and allows food trucks as temporary vendors on private property subject to location and operations restrictions, including distancing requirements from restaurants.

Fairburn (Georgia), City of. 2015. *Code of Ordinances*. Part II, Land Development and Related Regulations; Chapter 80, Zoning; Article I, In General; Section 80-4, Definitions. Article IV, Administrative Permits and Use Permits; Section 80-237, Mobile Food Truck. Tallahassee, Fla.: Municipal Code Corporation.

- 2013 ordinance defines *mobile food truck* and provides standards restricting location, size, signage, and operations for trucks on private property.

Fayetteville (Arkansas), City of. 2015. *Code of Ordinances*. Title XV, Unified Development Code; Chapter 178, Outdoor Vendors; Section 178.05, Food Truck and Food Trailer Limited Time Permits.

- 2014 ordinance defines *food trucks* and *food trailers* and allows them to locate for a limited time on public and private property. Establishes lottery systems for a limited number of permits allowing food trucks to locate in designated public parking spaces and public property; also establishes permit process for locating on private property. Provides standards addressing location, operations, and fees.

Fort Worth (Texas), City of. 2015. *Code of Ordinances*. Appendix A, Zoning Regulations; Chapter 4, District Regulations; Article 8, Nonresidential District Use Table. Chapter 5, Supplemental Use Standards; Article 4, Temporary Uses; Section 5.406, Mobile Vendors. Chapter 9, Definitions; Section 9.101, Defined Terms. Cincinnati: American Legal Publishing Corporation.

- 2012 and 2013 ordinances defines *mobile vending unit* and *mobile vendor food court* and provides standards addressing location, parking, signage, and operations for units and courts on private property.
- See city webpage, "Mobile Food Vendor," at <http://fortworthtexas.gov/health/MobileVendors/>.

Huntsville (Alabama), City of. 2015. *Code of Ordinances*. Appendix A, Zoning Ordinance; Article 3, Definitions; Section 3.1, Interpretation. Article 73, Supplementary Regulations and Modifications; Section 73.23.1, Mobile Food Vending. Tallahassee, Fla.: Municipal Code Corporation.

- 2013 ordinance amended in 2015 defines *mobile food vending unit* and *mobile food vending site*, permits mobile food vending in multiple commercial, industrial, and research park districts. Provides standards addressing location and operations for units and sites on private property.

Manor (Texas), City of. 2013. *Ordinance No. 185-N: To Add Food Court Establishments in Commercial and Industrial Districts as a Conditional Use*.

- Defines *mobile food unit* and *food court establishment* and permits food court establishments as conditional uses in commercial and industrial districts, subject to standards addressing location (including proximity to other food courts and residential districts) as well as site design/parking.

Miami-Dade (Florida), County of. 2015. *Code of Ordinances*. Chapter 33, Zoning; Article I, In General; Section 33-1, Definitions. Section 33-14.1, Mobile Sales and Mobile Food Service Operations. Tallahassee, Fla.: Municipal Code Corporation.

- 2011 and 2013 ordinances defines *mobile food service operation* and allow for mobile operations on private property in several urban nonresidential districts, as well as institutional uses in residential districts. Provides standards addressing location, site area, parking, signage, and operations.
- See city webpage, "Mobile Sales and Mobile Food Service Operations Requirements and Guidelines," at [www.miamidade.gov/permits/mobile-sales.asp](http://www.miamidade.gov/permits/mobile-sales.asp).

Raleigh (North Carolina), City of. 2015. *Unified Development Ordinance*. Chapter 6, Use Regulations; Article 6.1, Allowed Uses; Section 6.1.4, Allowed Principal Use Table. Article 6.4, Commercial Uses; Section 6.4.10, Restaurant/Bar; part D, Food Trucks. Chapter 7, General Development Standards; Article 7.1, Parking; Section 7.1.2, Required Parking.

- Defines *food truck* as a facility within the restaurant/bar use category and provides standards addressing location, parking, signage, and operations for trucks on private property.
- See city webpage, "Food Trucks: Licensed, Motorized Vehicles or Mobile Food Units," at [www.raleighnc.gov/business/content/PlanDev/Articles/Zoning/FoodTrucks.html](http://www.raleighnc.gov/business/content/PlanDev/Articles/Zoning/FoodTrucks.html).

St. Petersburg (Florida), City of. 2015. *Code of Ordinances*. Chapter 16, Land Development Regulations; Section 16.50.440, Vending, Mobile Food Trucks. Tallahassee, Fla.: Municipal Code Corporation.

- 2014 ordinances defines *mobile food truck* and establishes three classes of these vehicles (*mobile kitchens, canteen trucks, and ice cream trucks*); also defines *food truck rally*. Provides location and operational standards for each class of mobile food truck on public property and on private property in all zoning districts allowing retail uses or restaurants/bars.

Salt Lake City (Utah), City of. 2015. *City Code*. Title 21A, Zoning; Chapter 21A.36, General Provisions; Section 21A.36.160, Mobile Businesses. Section 21A.36.161, Mobile Food Courts. Chapter 21A.62, Definitions; Section 21A.62.040, Definitions of Terms. Coeur d'Alene, Id.: Sterling Codifiers.

- 2012 ordinance defines *mobile food business, mobile food court, mobile food trailer, and mobile food truck* and provides standards addressing location, parking, signage, and operations for mobile food units on public and private property in mixed use and nonresidential districts and standards addressing location, parking, and operations for mobile food courts in manufacturing and downtown districts.
- See city webpage, "Business Licensing – Mobile Food Business" at [www.slcgov.com/business-licensing/business-licensing-mobile-food-business](http://www.slcgov.com/business-licensing/business-licensing-mobile-food-business).

San Antonio (Texas), City of. 2015. *Unified Development Ordinance*. Article III, Zoning; Division 2, Base Zoning Districts; Section 35-311, Use Regulations; Table 311-2, Nonresidential Use Matrix. Division 7, Supplemental Use Regulations; Section 35-399, Mobile Food Courts. Appendix A, Definitions and Rules of Interpretation; Section 35-A101, Definitions and Rules of Interpretation; part b, Definitions. Tallahassee, Fla.: Municipal Code Corporation.

- 2012 ordinance defines *mobile food court* and *mobile food establishment*. Allows mobile food courts in multiple nonresidential districts subject to standards addressing location, site design, signage, and operations.
- See next section for licensing requirements.
- See city webpages, "Downtown Mobile Food Truck Vending," at [www.sanantonio.gov/CCDO/vending/mobilefoodtruckvending.aspx](http://www.sanantonio.gov/CCDO/vending/mobilefoodtruckvending.aspx), and "Mobile Vending," at [www.sanantonio.gov/Health/FoodLicensing/Mobile/MobileVending.aspx#8958226-requirements-by-type-of-operation](http://www.sanantonio.gov/Health/FoodLicensing/Mobile/MobileVending.aspx#8958226-requirements-by-type-of-operation).

Watauga (Texas), City of. 2015. *Code of Ordinances*. Subpart B, Land Development; Chapter 115, Zoning; Article I, In General; Section 115-6, Permitted Principal, Accessory

and Specific Use Permit Uses. Article III, Zoning Districts Established; Zoning Map; District Regulations; Section 115-63, Supplemental Regulations; part (14), Mobile Food Vendor Courts. Article IV, Table of Uses. Tallahassee, Fla.: Municipal Code Corporation.

- 2014 ordinance defines *mobile food vendor court* and provides standards addressing location, operations, site design, parking, and signage requirements for this use.
- See next section for licensing requirements.

### Licensing Standards\*

Austin (Texas), City of. 2015. *Code of Ordinances*. Title 10, Public Health Services and Sanitation; Chapter 10-3, Food and Food Handlers; Article 1, General Provisions; Section 10-3-1, Definitions. Article 4, Mobile Food Establishments. Tallahassee, Fla.: Municipal Code Corporation.

- The public health title of the code defines *mobile food establishment* and provides health permit requirements and sanitary standards for mobile food establishment units.

Bedford (Texas), City of. 2015. *Code of Ordinances*. Chapter 66, Health and Sanitation; Article II, Food and Food Establishments; Section 66-33, Definitions. Section 66-44, Mobile Food Units. Tallahassee, Fla.: Municipal Code Corporation.

- 2013 provisions in the health and sanitation code of this suburban community allow mobile food units to vend on commercially zoned private property (e.g., shopping center parking lots); provides location and operations requirements.

District of Columbia. 2013. *Notice of Final Rulemaking: Adoption of a new Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR), and amendments to Chapter 5 (Basic Business License Schedule of Fees) of DCMR Title 17 (Business, Occupations and Professions), and to Chapter 33 (Department of Consumer & Regulatory Affairs (DCRA) Infractions) of DCMR Title 16 (Consumers, Commercial Practices, and Civil Infractions)*.

- 2013 amendment to the public space title of the code establishes Mobile Roadway Vending locations for mobile food trucks and allows them to vend from public parking spaces with payment of parking meter fees. Vendors participate in a monthly lottery for assigned daily spaces in MRV locations. Includes design and operational standards for vending vehicles.
- See city webpage, "Mobile Food Truck Licensing Information," at <http://dcra.dc.gov/service/mobile-food-truck-licensing-information>.

Evanston (Illinois), City of. 2015. *Code of Ordinances*. Title 8, Health and Sanitation; Chapter 23, Mobile Food Vehicle Vendors. Tallahassee, Fla.: Municipal Code Corporation.

- 2010 provisions in the health title of the code amended in 2012 define *mobile food vehicle*, describe permit requirements, and provide locational and operational standards.
- See city webpage, "Mobile Food Vendor Permit," at [www.cityofevanston.org/business/permits-licenses/mobile-food-vendor/](http://www.cityofevanston.org/business/permits-licenses/mobile-food-vendor/).

Hoboken (New Jersey), City of. 2014. *Municipal Code*. Part II, General Legislation; Chapter 147, Mobile Retail Food Vendors. Rochester, N.Y.: General Code.

- 2012 ordinance defines *mobile retail motorized food vendor*, *mobile retail nonmotorized food vendor*, and *mobile retail pre-packaged food vendor*. Includes purpose statement, provides location and operations standards, details health license and certificate requirements, and describes parking permit requirements.

Huntsville (Alabama), City of. 2015. *Code of Ordinances*. Chapter 18, Peddlers and Solicitors; Article II, Central City Area; Section 18-36, Sidewalk Cafes, Vendors, and Mobile Food Vendors. Tallahassee, Fla.: Municipal Code Corporation.

- The peddling title of the code defines *mobile food vending unit* and *mobile food vending site*, allows mobile food vending in public spaces within the city center. Lists permit requirements, provides location and operations standards.

Jackson (Mississippi), City of. 2015. *Code of Ordinances*. Chapter 66, Health and Sanitation; Article III, Mobile Food Vending. Tallahassee, Fla.: Municipal Code Corporation.

- 2011 provisions in the health and sanitation title, amended in 2015, define *mobile food vendor* and *mobile food preparation vehicle*. Allows for mobile vending in designated locations on public property with a permit. Lists permit application requirements and provides location, operations, and design standards for mobile food vehicles.

Minneapolis (Minnesota), City of. 2015. *Code of Ordinances*. Title 10, Food Code; Chapter 186, In General; Section 186.50, Definitions. Chapter 188, Administration and Licensing; Article III, License Holder Requirements; Section 188.485, Mobile food vendors. Tallahassee, Fla.: Municipal Code Corporation.

- 2010 provisions in the food code, amended in 2013, define *mobile food vehicle vendor* and provides for mobile food vending from designated locations on public property and streets with a license. Describes licensing requirements, provides location and operations standards.

New Orleans (Louisiana), City of. 2015. *Code of Ordinances*. Chapter 110, Peddlers, Solicitors, and Itinerant Vendors; Article II, Peddlers and Itinerant Vendors; Division 5, Food—Mobile Vending. Tallahassee, Fla.: Municipal Code Corporation.

- 2013 provisions in the peddling code, amended in 2014, define *mobile food truck* and *mobile vendor*, and allows for mobile food vending from the public right-of-way and public places with a permit. Lists permit requirements, provides location and operations standards.
- See city webpage, "Food Truck Permit," at [www.nola.gov/onestop/business/food-alcohol/food-truck-permit/](http://www.nola.gov/onestop/business/food-alcohol/food-truck-permit/).

Northampton (Massachusetts), City of. 2015. *Municipal Code*. Chapter 285, Streets, Sidewalks, and Public Property; Article I, General Street and Sidewalk Regulations; Section 285-4, Permit to Display Merchandise on Streets Required; Mobile Food Vehicles; part C, Mobile Food Vehicles. Rochester, N.Y.: General Code.

- 2013 provisions in the streets, sidewalks, and public property chapter of the code defines *mobile food vehicle* and allows them to vend from public parking spaces with a permit, but prohibits their operation within the central business district. Provides location and operational standards.

Portland (Maine), City of. 2015. *Code of Ordinances*. Chapter 19, Peddlers and Solicitors; Section 19-23, Rules Promulgated by City Manager. Also, "City of Portland Food Truck Rules and Regulations."

- 2013 provisions in the peddling code provide that city manager may establish regulations governing food trucks. Rules and regulations list permitted public and private locations and districts for food truck operations as well as design and operations requirements; night vending permitted.

San Antonio (Texas), City of. 2015. *Code of Ordinances*. Chapter 13, Food and Food Handlers; Article I, In General; Section 13-3, Definitions. Article IV, Mobile Food Courts and Mobile Food Establishments. Tallahassee, Fla.: Municipal Code Corporation.

- 2008 provisions in the food code, amended through 2014, define *mobile food court* and allow for mobile food vending on public and private property with permit. Provides location, operations, and sanitation standards.

Seattle (Washington), City of. 2015. *Municipal Code*. Title 15, Street and Sidewalk Use; Subtitle I, Street Use Ordinance; Chapter 15.17, Vending; Section 15.17.120, Food Vending From a Curb Space. Tallahassee, Fla.: Municipal Code Corporation.

- 2011 provisions in the streets and sidewalks title require mobile food vehicles to obtain permits from the Department of Transportation before vending in curbside spaces or designated food-vehicle zones. Provides location and operations standards.
- See city webpages, "Street-Food Vending," at [www.seattle.gov/economicdevelopment/business-owners/street-food-vending](http://www.seattle.gov/economicdevelopment/business-owners/street-food-vending), and "Street Food Carts or Trucks," at [www.seattle.gov/dpd/permits/commonprojects/streetfoodcarts/default.htm](http://www.seattle.gov/dpd/permits/commonprojects/streetfoodcarts/default.htm).

Traverse City (Michigan), City of. 2015. *Code of Ordinances*. Part 8, Business Regulations; Chapter 865, Mobile Food Vending.

- 2013 licensing provisions, amended in 2015, define *mobile food vending unit*, allows for vending in city-controlled parking spaces and private property with a permit. Provides location and operations requirements.

Watauga (Texas), City of. 2015. *Code of Ordinances*. Chapter 22, Licenses, Permits, and Business Regulations; Article XIV, Mobile Food Vendor Units. Tallahassee, Fla.: Municipal Code Corporation.

- 2014 licensing provisions define *mobile food vendor unit* and provide permitting, location, and operations requirements for mobile food vendors.

*\*The code excerpts contained in this Essential Info Packet are current as of November 2015, but do not reflect any amendments made after this date. Please visit municipal websites or websites of the code publishers for access to the most current versions of local codes.*

## Articles and Reports

- Arroyo, Rodney and Jill Bahm. 2013. "Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending." *Zoning Practice*, September.

### Additional Online Resources

- National League of Cities. 2013. *Food on Wheels: Mobile Food Vending Goes Mainstream*. Washington, D.C.: National League of Cities.  
[www.nlc.org/Documents/FoodTruckReport.pdf](http://www.nlc.org/Documents/FoodTruckReport.pdf)
- Frommer, Robert, and Bert Gall. 2012. *Food Truck Freedom: How to Build Better Food Truck Laws in Your City*. Arlington, Va.: Institute for Justice.  
[www.ij.org/food-truck-freedom](http://www.ij.org/food-truck-freedom)

# Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending

By Rodney Arroyo, AICP, and Jill Bahm, AICP

Recent economic and cultural trends show an explosion in the popularity of food trucks, or mobile vendors, over the past several years.



Jill Bahm/Clearzone

➔ One of the hallmarks of the current food truck boom is an increased focus on “in-truck” preparation over preparation at a central commissary.

According to research done by Emergent for the National Restaurant Association, the growth of mobile food trucks will soar in the next five years, generating up to \$2.7 billion in revenue nationally by 2017—up from \$650 million in 2012 (Emergent Research 2012). All across the country, cities, small towns, and suburbs are seeing food trucks popping up, some in unexpected places like office and industrial parks, where zoning ordinances typically preclude res-

taurants. Amplifying the push for food trucks are the twin trends of “buying local” and “food as entertainment” that are enhanced by programs such as the *Great Food Truck Race* on the Food Network. While ice cream trucks and job-site lunch wagons haven’t disappeared, they are increasingly being joined by gourmet trucks and trucks specializing in ethnic offerings.

All across the United States, people are exploring how mobile food vending might

make a difference in their lives and their communities. More resources are starting to become available for potential business owners. Networks for mobile food vendors are growing; the Southern California Mobile Food Vendors Association was formed in 2010 as one of the first associations dedicated to helping vendors break down barriers to business ([www.socalmfva.com](http://www.socalmfva.com)). And this fall, Roam—a first-ever industry conference for mobile food

## ASK THE AUTHOR JOIN US ONLINE!

Go online during the month of September to participate in our “Ask the Author” forum, an interactive feature of Zoning Practice. Rodney Arroyo, AICP, and Jill Bahm, AICP, will be available to answer questions about this article. Go to the APA website at [www.planning.org](http://www.planning.org) and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The authors will reply, and Zoning Practice will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of Zoning Practice at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA Zoning Practice web pages.

### About the Authors

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suppliers and owners—will take place in Portland, Oregon.

On the worldwide stage, the World Street Food Congress is the first of its kind to connect and open up fresh ideas and thought leadership in the massive and growing street-food culture and industry throughout the world. This 10-day street-food festival was hosted in Singapore in January 2013 and featured well-known leaders in the food industry ([www.wsfcongress.com](http://www.wsfcongress.com)).

Faced with inquiries from food vendors, many communities turn to their zoning codes, only to discover that mobile food vending isn’t really defined and may not be permitted in the way vendors might like. With the approach to regulating mobile vending varying widely in communities, it can be hard to know where to begin when considering if and how to accommodate food trucks.

### WHAT IS MOBILE FOOD VENDING?

Regulatory codes for many communities recognize transient merchants—those goods and services provided by a traveling vendor. The typical ice cream truck would be a good example of a transient merchant who is mobile most of the time, stopping only when requested for a few short minutes. Many operators of today’s food trucks or carts, however, are seeking more than a few minutes on the street, sidewalk, or parking lot, staying in place for a few hours to serve breakfast, lunch, or dinner. In fact, when they are located on private property, some food trucks may be in one location for days, weeks, or even months. It is important to make a dis-

inction between the food vendors that are more transient in nature, like an ice cream truck, and those that seek to move about less frequently. Both types of uses can offer benefits to the community, and they will each have different potential issues to regulate.

Many mobile food vendors utilize self-driven vehicles that permit easy relocation throughout the community. However, mobile food vending also includes trailers, food kiosks, and food carts. Food kiosks are temporary stands or booths that are typically intended to sell prepared foods, including ice cream, pretzels, and the like. Food kiosks may be found inside a large office building or shopping mall, but may also be secured for outside use. Some communities, like Maui County, Hawaii, allow a variety of products to be sold at a kiosk, provided certain standards are met (§30.08.030). While temporary in structure, food kiosks are often stationary with a defined location. Food carts allow the vendor to sell from outside the moveable unit and are often used to sell fresh fruits and vegetables. Typically, the food in kiosks and carts is prepared elsewhere and kept cold or hot in the unit. The city of New York encourages “green carts” that offer fresh produce in certain areas of the city and has special regulations for these uses ([www.nyc.gov/greencarts](http://www.nyc.gov/greencarts)).

In communities across the U.S., mobile food vendors are seeking permits to start these innovative businesses. They often run into roadblocks at city hall, because while many zoning ordinances include provisions for temporary

uses, most do not contain current definitions for mobile food vending nor do they include any standards that specifically relate to vending and the issues that may arise. The net result in many communities, intentional or unintentional, is a prohibition on mobile food vending.

### THE PROS AND CONS OF MOBILE FOOD VENDING

Over the past few years, most of the economy has been struggling and the workforce has been challenged to adapt. With laid-off workers trying to reinvent themselves and new immigrants looking for opportunities, the number of people starting new businesses is rising. Mobile food vending seems, for some, like a low-cost way to wade into the pool of business ownership. There are a number of reasons why communities may elect to sanction mobile food vending:

- **It provides an opportunity to increase jobs and businesses.** The cost of starting a food truck business can start at \$25,000, where a traditional bricks-and-mortar establishment may start at \$300,000, according to the National Restaurant Association (Emergent Research 2012).
- **It offers opportunities to provide food choices where zoning precludes restaurants.** Traditional zoning codes tend to restrict the uses permitted in office and industrial districts, only allowing uses that narrowly meet the intent of those districts. Office and industrial parks, in particular, are often isolated from the rest of the community, requiring employees to drive to retail and restaurant areas. In addition, some communities may not have access to variety of

healthy, fresh foods, and therefore decide to encourage such food vendors in certain neighborhoods by relaxing requirements. New York’s green carts initiative allows additional permits to be issued over the city’s defined limit to mobile food vendors that offer fresh produce in underserved neighborhoods, and Kansas City, Missouri, offers reduced permit fees for mobile food vendors in city parks that meet certain nutritional standards (Parks and Recreation Vending Policy 4.7.08).

- **It can increase activity in struggling business districts** by creating a dynamic environment where people gather around the availability of new and fresh food. The economy has taken a toll on businesses over the past several years. Those that are hanging on in some areas find that their neighboring buildings or businesses are vacant. Food trucks can be a way to enliven an area, generating traffic for existing businesses and possibly spinning off new business activity. The restaurant industry is evolving to meet the demands of patrons who are looking for locally grown, sustainable, healthy, and fast options for dining. When food trucks use social media to communicate about their location schedules, it can build up a certain level of excitement and anticipation that can make a positive social impact. In addition, the rising trend of “cart pods” and “food truck rallies” brings multiple mobile food vendors to one location, creating a festive atmosphere in an area for a short time.

- **They signal to other potential businesses that the community is adapting to the evolving economy and supporting entrepreneurship.** Mobile food trucks are a new way of doing business; in these early years, communities that anticipate the demand from businesses and consumers may also find that this flexibility signals receptivity to new business models.

- **They are a way for restaurateurs to test the local market for future bricks-and-mortar facilities.** Mobile food trucks offer opportunities to interact with a potential market, to test recipes and pricing, and see if the restaurant fits with the community. All across the United States there are examples of food truck businesses evolving into permanent establishments, including El Camion (“the truck”) in northwest Seattle that has recently opened a restaurant and bar in the Ballard neighborhood after several years of experience with its two mobile food units. Torchy’s Tacos in Austin, Texas, started with a food truck and now has eight bricks-and-mortar restaurants in Austin, Dallas, Fort Worth, and Hous-

ton—and two more opening this year. The Lunch Room in Ann Arbor, Michigan, plans to open its bricks-and-mortar location soon, using social media to solicit fans of its existing “Mark’s Carts” to become investors in the restaurant.

Along with these potential benefits can come community impacts and possible conflicts. Some of the challenges associated with

went through an extensive research and public input process, surveying their local chamber of commerce and meeting with prospective mobile food vendors, residents groups, and restaurant owners. Their resulting ordinance language responds to the needs and concerns of the community (Longmont 2011).



➔ Food truck gatherings are increasingly common in communities with extensive food truck offerings.

mobile food trucks might include problems with maintenance, trash, parking, noise, and vehicular and pedestrian circulation. In addition, some restaurateurs may be threatened by this new competition and try to prevent mobile food vending. Food trucks also have their own operational challenges, including dealing with unpredictable weather and maintaining an appropriate inventory despite limited storage.

The best way to understand and manage the pros and cons of food trucks in individual communities is to solicit public input and dialogue about the needs and wants of the community. For example, Longmont, Colorado,

provisions note that allowing food trucks will “promote diversification of the town’s economy and employment opportunities and support the incubation and growth of entrepreneurial/start-up businesses” but also that food trucks pose “unique regulation challenges.”

While specific approaches vary from place to place, communities interested in adding or updating regulations for mobile food vending should start by defining the uses and then consider each of the following questions:

- Where in the community should such uses be permitted?
- How long should a food truck be permitted to stay in one location?

#### ADDRESSING AREAS OF CONCERN THROUGH ZONING

Many communities are updating their codes to accommodate or regulate mobile vending. In June 2012 Grand Rapids, Michigan, included the following statement of intent in a new set of mobile food vending provisions:

Employment and small business growth in the city can occur while providing a broad range of food choices to the public through careful allowances for temporary concession sales. The provisions of this section are intended to prevent predatory practices on bricks-and-mortar restaurants while allowing for new food vending opportunities that can add vitality to vacant parking lots and underutilized sites . . . (\$5.9.32.K).

Other cities, including Phoenix, Arizona (§624.D.87); Chapel Hill, North Carolina (§§10-66–74); and Fort Worth, Texas (§5.406)—just to name a few—adopted regulations in 2012 to allow mobile vending or food trucks. Chapel Hill’s

- Are these mobile units just for food sales, or can other goods be sold as well?
- Does the community want to increase activity?
- How can the zoning ordinance address upkeep and maintenance?
- When can food trucks operate?
- How are visitor parking and circulation accommodated?
- How are these uses reviewed and permitted?
- What do vendors and their customers want or need?
- How is signage for the mobile unit regulated?
- How is the site lit to ensure safety?

### Location

It is common to allow mobile food vending in commercial districts, but some communities add industrial districts or specify mixed use districts. Start with the community's comprehensive plan—is there a need or desire to increase activities in specific parts of the community? Are there concerns about the impact of single-purpose districts (especially office and industrial) on connectivity, traffic congestion, and business

In consideration for existing facilities, some communities decide that there should be a minimum distance between mobile units and bricks-and-mortar restaurants. Some communities try to limit the impact on adjacent residential uses through a distance requirement or by restrictions on hours of operation. Planners should test these locational restrictions to ensure that realistic business opportunities exist. El Paso, Texas, repealed its locational requirement of 1,000 feet from bricks-and-mortar establishments following a 2011 lawsuit to provide sufficient opportunities for mobile food vendors (Berk and Leib 2012). Attorneys Robert Frommer and Bert Gall argue that separation from other establishments is not necessary and that food truck regulations should be narrowly tailored to legitimate health, safety, and welfare concerns, not regulate competition (2012).

The American Heart Association has also looked at location issues related to mobile food vending. They report that several communities across the country prohibit mobile food vending within a certain distance of schools (or

community and often is related to where mobile food vending is permitted. Some communities allow food trucks on public property but prohibit overnight parking. Where on-street parking is at a premium, communities may consider allowing food trucks to utilize public parking spaces for the same duration as other parked vehicles. Chicago requires food trucks to follow posted meter time restrictions, with no more than two hours in one location. In addition, the city also limits mobile food vending to two hours on private property (§4-8).

In contrast, some communities allow food trucks on private property for up to 30 days or more at one location. For example, Grand Rapids allows concession sales for up to 200 consecutive days over 12 calendar months (§5.9.32.K.6).

Regulations like this may impact vendors in terms of the types of food that can be sold and the manner in which they are prepared, especially when preparation is done on-site. Communities may wish to consider whether the allowed duration is reasonable for food vendors as well as adjacent property owners.



➡ This food truck rally in Royal Oak, Michigan, illustrates how a gathering of food trucks can activate an otherwise underutilized space.

retention and recruitment? Are there any areas in the community where the population is underserved by food choices? Planners can take these concerns to the community and invite residents and business owners to share their thoughts on where mobile food vending might be appropriate and desirable.

Some communities make a distinction between vending on public property, which often requires a license but is not regulated by zoning, and private property, which often requires a temporary use permit and is regulated by the zoning ordinance. When permitted on private property, zoning standards should require evidence of property owner approval.

at school release times) to limit the sometimes nutritionally challenged food choices available (2012). Woodland, California, prohibits mobile food vending within 300 feet of a public or private school, but will allow them on school property when approved by the school (§14-15). In a different twist, the Minneapolis Public School System introduced a food truck program this year to offer free nutritious meals to students during the summer months at four different sites in Minneapolis (Martinson 2013).

### Duration

The length of time food trucks are permitted to stay in one place varies widely by commu-

### Goods Available for Sale

Some communities, like College Station, Texas, are very specific that the goods sold from mobile vending to be food related (§4-20). This is often borne of a desire to start with mobile vending on a limited basis to gauge its impact. As mobile food trucks become more prevalent, surely people will explore the ideas of starting other types of businesses in this format. Communities may wish to consider the questions raised earlier about location and assess whether or not it makes sense to allow other goods in addition to food to be sold in designated areas. For example, Ferndale, Michigan, allows a variety of wares to be sold by a mobile

vendor, including apparel, jewelry, household goods, and furnishings (§§7-73–82). That might be just the place for book publisher Penguin Group (USA) to take its recently introduced first mobile bookstore, which aims to make books accessible where big box retailers aren't located (Edsall 2013).

### Number of Units in One Location

Some communities that are getting on board with mobile food vending have started allowing them to congregate for certain events and activities. For example, Royal Oak, Michigan, started a food truck “rally” at their indoor farmers market during colder months. It is a good way to utilize the facility as well as provide entertaining food options for city residents. It has now become a great family event every month year-round, with musical entertainment, bouncy houses, and face painting. The city limits the rally to no more than 10 different trucks with a variety of cuisine for the whole family.

units to function on private property as a single business. To address potential negative impacts, each mobile food court must have its own on-site manager, who is responsible for the maintenance of the area (§5.406).

### Trash

The type of standards for trash removal and upkeep will vary depending on the location and duration of the vending. Most communities require waste receptacles for every mobile food vending unit and some further require waste to be removed from a site daily. Keep in mind that where communities allow seating along with the mobile food unit, people will generate more trash on-site than in situations where there is no seating provided and people take their food (and trash) to go.

### Hours of Operation

Some communities limit hours of operation to around lunchtime (e.g., 10:30 a.m. until 3:30

trucks on private property, communities typically require the vendor to ensure that there is sufficient parking available for its use and any other uses on the site, including the space taken up by the unit itself. Some cities allow public parking areas to be utilized for food trucks, and may even allow metered parking spaces to be used provided the related meter fees are paid. For example, Minneapolis allows a mobile vendor to park at no more than two metered spaces, as long as they are not short-term spaces and are not located within 100 feet of an existing restaurant or sidewalk cafe—unless the restaurant owner gives consent (§188.485.c.7).

### Licenses and Permits

Most communities require permits or licenses regardless of whether the trucks operate on public or private property. It is also common for the community to reference compliance with other codes, particularly state or local health codes. These other codes can impact how trucks operate. For example, California's

Health and Safety Code requires trucks to have hand-washing stations if food is prepared in the truck, but does not require them on trucks selling only prepackaged foods like frozen desserts (§114311).

Some communities cap the number of licenses available for food trucks to limit their impact, but many others do not. Grand Rapids

requires a temporary use permit, subject to planning commission approval, and gives standards for consideration (§5.9.32.K.18), including an assessment asking “[w]ill the proposed stand, trailer, wagon or vehicle contribute to the general aesthetic of the business district and include high quality materials and finishes?”

### Site Amenities

Some communities specify that no tables or chairs are permitted, or if they are, then sanitary facilities are also required. There may be flexibility in the permitted arrangements for such facilities (for example, having permission to use such facilities within a reasonable distance of the mobile unit). Frisco, Texas, prohibits connections to po-



Jill Bahmy/Clearzoning

Site amenities like tables and chairs are often easier to accommodate on private property than in a public right-of-way.

According to Market Master Shelly Mazur, “It’s nice to be able to offer a family-friendly event in a climate-controlled building with renovated bathrooms and seating.”

On the other hand, in its 2010 ordinance, the city of Zillah, Washington, banned mobile food vending altogether, declaring it a “nuisance,” and finding that “when mobile vendors congregate in the same area, the heightened intensity of use negatively impacts the surrounding area, particularly by increased trash” (§8.32). Fort Worth tackled this issue head-on, defining a group of food trucks as a “mobile food court” when two or more mobile vending units congregate. They allow these

p.m.), and others allow sales from early in the morning to late in the evening (e.g., 7 a.m. until 10 p.m.). Some communities place no time limits on these operations in the zoning regulations. Again, consider where these units will be permitted and the potential conflicts with adjacent uses.

### Parking and Circulation

Given the mobility of these vendors, they by necessity are typically located in parking areas. Whether in public spaces or a private parking lot, it is important to ensure sufficient parking for existing uses to prevent an undue burden on bricks-and-mortar establishments. For food

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table water, requiring mobile food vendors to store their water in an internal tank. The city also requires vendors to be located within 50 feet of an entrance of a primary building, and drive-through service is expressly prohibited (§3.02.01.A(20)). King County, Washington, requires that all mobile food vending in the county be located within 200 feet of a usable restroom (§5.34).

### Signage

Some communities use their existing sign regulations, but others tailor standards for mobile units. In Michigan, both Grand Blanc Township (§7.4.9.F) and Kalamazoo (§§25-63–68) allow one sign on the mobile vending unit itself, but do not allow any other signage. This is fairly common. In many cases, the truck itself essentially functions as one big sign with colorful graphics. Additionally, many mobile food vendors now use social media to get out the word regarding the time and place they will set up shop, potentially reducing the need for additional signage beyond that on the unit itself.

### Lighting

Lighting is not as commonly addressed as other issues, especially if a mobile food vending unit is located in an existing developed area, but it is likely presumed that other applicable lighting requirements appropriate to the location are to be followed. Consider adjacent uses and the impact of light trespass and glare. For example, Grand Blanc Township requires mobile food vending units to be lit with available site lighting. No additional exterior lighting is allowed unless permitted by the zoning board of appeals upon finding that proposed exterior lighting mounted to the mobile vending unit will not spill over on to adjacent residential uses as measured at the property line (§7.4.9.F.10).

### TESTING, FOLLOW-UP, AND ENFORCEMENT

One of the nice things about mobile food vending is that it is really easy for a community to put a toe in the water and test the impact of regulations on mobile food vendors, other community businesses, and the public, and to adjust the regulations

as appropriate. The Metropolitan Government of Nashville-Davidson County, Tennessee, initiated a test phase beginning April 2012 that will provide evaluative data for a successful mobile food vendor program. The program will initially be operated under a temporary permit issued by the Metro Public Works Permit Office for two specified zones, the downtown core and outside of it. Oakland, California, has a pilot program for “Food Vending Group Sites,” defined as “the stationary operation of three (3) or more ‘mobile food vendors’ clustered together on a single private property site, public property site, or within a specific section of public right-of-way” (§5.51).

Before embarking on extensive zoning rewrites, review the suggested considerations with the community to anticipate and plan for appropriate ways to incorporate this use in a reasonable way. Mobile food vending is on the rise all over the country, from urban sites to the suburbs. When regulated appropriately, mobile food vending can bring real benefits to a community, including jobs, new businesses, fresh food, and vitality.

Cover image by Rodney Arroyo; design concept by Lisa Barton

## VOL. 30, NO. 9

**Zoning Practice is a monthly publication of the American Planning Association. Subscriptions are available for \$95 (U.S.) and \$120 (foreign). W. Paul Farmer, FAICP, Chief Executive Officer; David Rouse, AICP, Managing Director of Research and Advisory Services.**

Zoning Practice (ISSN 1548–0135) is produced at APA. Jim Schwab, AICP, and David Morley, AICP, Editors; Julie Von Bergen, Assistant Editor; Lisa Barton, Design and Production.

**Missing and damaged print issues:** Contact Customer Service, American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601 (312-431-9100 or [customerservice@planning.org](mailto:customerservice@planning.org)) within 90 days of the publication date. Include the name of the publication, year, volume and issue number or month, and your name, mailing address, and membership number if applicable.

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## Municipal Guides

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## Food Truck Businesses

Updated 06.21.2012

### What is a Food Truck?

A Food Truck, or Mobile Retail Food Vendor/Establishment is a readily movable, motorized wheeled vehicle, or a towed wheeled vehicle, designed and equipped to serve food.

### Where can I place a Food Truck and what do I need before operating a Food Truck?

	Parked on the street	Parked on private property	As part of a larger public event	Parked in a public park
Allowed?	■	■	■	See page 2
Business License Required?	■	■	■	■
Permit Required?	Permit may be required, see page 2	■ Two exceptions	■	■
Conditions on location and operations	See page 2	See page 3	See <a href="http://www.denvergov.org/artsandvenues">www.denvergov.org/artsandvenues</a>	In association with an event (see page 2)

### ALL FOOD TRUCKS - Business License

To operate a Food Truck, a business license is required under the class of "Retail Food Establishments, Restaurant Mobile." The Denver Environmental Health Dept. requires that all Food Trucks, or mobile units, operate in conjunction with a commissary kitchen or other licensed kitchen. Commissary shall mean an approved catering establishment, restaurant, or other approved place in which food, containers or supplies are kept, handled, prepared, packaged or stored.

#### What you need to get approved...

- Pass required inspections:
  - Denver Environmental Health
  - Denver Fire Department (If propane used on truck)
- A completed Affidavit of Commissary form. Applicants need to contract with a local commissary, or may use their own approved commercial kitchen if they have one.
- Zoning use permit for where vehicle will be stored, if in the City and County of Denver.

#### How to get approved...

- Apply in person at Denver Excise and Licenses
- Submit required documents:
  - Need valid Colorado identification
  - Complete general business questionnaire
- Pay fees:
  - Application fee: \$200.00
  - License fee (per year): \$125.00
- Schedule a licensing inspection with the Denver Department of Environmental Health (DEH). Licensing inspections are conducted between 9 a.m. - 11 a.m. every Wednesday.
- Upon completion of a satisfactory inspection, DEH shall approve the affidavit and the applicant shall return the signed documents to Excise and Licenses to receive a license.

#### More info...

Denver Excise and Licenses  
[www.denvergov.org/exciseandlicenses](http://www.denvergov.org/exciseandlicenses)  
201 West Colfax Ave  
Room 2.H.9  
Denver, CO 80202

Denver Environmental Health  
[www.denvergov.org/phi](http://www.denvergov.org/phi)  
201 West 14th Ave  
Suite 200  
Denver, CO 80204

#### References:

Denver Revised Municipal Code:  
Definitions: Section 23-2 (23)  
Regulations: Section 23-51  
Fees: Section 32-106.5

## FOOD TRUCK PARKED ON THE STREET - Department of Public Works

**You can park for vending on any street, with the following exceptions:**

- Within 20' of an intersection when making a sale or attempting to make a sale
- Any street, alley or public right-of-way within the central business district defined by ordinance (see map below)
- Food Trucks are prohibited from parking within 300' of a public park or parkway unless permission has been granted as part of, or in association with, a festival or contracted event that is permitted by the Denver Department of Parks and Recreation.

### What rules apply...

- All parking rules must be followed. For example, you cannot double park or park at a meter without paying the required fee. If a parking meter is bagged for a special event, you can only park there if authorized by the event
- If selling ice cream as more than 10% of the gross income from the food truck, you cannot sell on any arterial street, collector street or laned highway. (See street types at [www.denvergov.org/LUTP/FunctionalClassification/tabid/390275/Default.aspx](http://www.denvergov.org/LUTP/FunctionalClassification/tabid/390275/Default.aspx))
- Cannot sell to any person who is standing in the street
- Cannot place anything, including chairs, tables, and signs on a public sidewalk or in the street

### More info...

Denver Public Works  
[www.denvergov.org/publicworks](http://www.denvergov.org/publicworks)  
 201 West Colfax Ave  
 Dept. #507  
 Denver, CO 80202

### References:

Denver Revised Municipal Code  
 Chapter 54, Article XII, Section 54-675

Food Trucks are not allowed in the area below:



## FOOD TRUCK IN A PUBLIC PARK - Permit from Denver Parks and Recreation

Food trucks are not allowed within a park or within 300' of a park or parkway unless associated with a festival or special event. If associated with a festival or special event, food trucks must obtain permission from festival or special event organizers and obtain a permit from Denver Parks and Recreation.

### More info...

Denver Parks and Recreation  
[www.denvergov.org/parksandrecreation](http://www.denvergov.org/parksandrecreation)  
 201 West Colfax Ave  
 2nd Floor  
 Denver, CO 80202

## FOOD TRUCK ON PRIVATE PROPERTY - Zoning Permit from Denver Development Services

Zoning allows licensed Food Trucks as summarized below:

If operating for more than 30 minutes at a location...

### Where they are allowed...

- All S-CC, S-MX, E-RX, E-CC, E-MX, C-MX, Industrial and OS-B zone districts ([www.denvergov.org/zoning](http://www.denvergov.org/zoning)).
- Allowed in all Downtown zone districts except Golden Triangle, Arapahoe Square and Civic zone districts (D-GT, D-AS, D-CV)
- Not allowed in Residential zone districts

### What you need to get approved...

- A zoning permit is required. The use type is "Retail Food Establishment, Mobile"

### What rules apply...

- Hours:
  - May only operate up to 4 consecutive hours each day per zone lot
  - May operate between 8 a.m. and 9 p.m. only
- Location:
  - Operations are prohibited on undeveloped zone lots and zone lots with unoccupied structures or unpaved surfaces.
  - Only 1 allowed per zone lot
  - Must be 200' from any eating and drinking establishment
  - Must be 200' from any other food truck
  - Must be at least 50' from any Residential zone district
- Other siting, signage and waste disposal standards apply

### How to get approved...

- Apply in person
- Pay fees:
  - Permit (good for 1 year): \$50
  - Annual renewal: \$50

If a special event, such as a group of food trucks at one location...

### Where they are allowed...

- Most zone districts ([www.denvergov.org/zoning](http://www.denvergov.org/zoning))

### What you need to get approved...

- Zoning permit is required. The use type is "Bazaar, Carnival, Circus or Special Event"

### What rules apply...

- Days:
  - Max of 12 consecutive days
  - At least 90 days between events at same location
- Hours: 9 a.m. to 11 p.m.
- If in a Residential zone district, must be a nonprofit or governmental entity only

### How to get approved...

- Apply in person
- Pay fees:
  - Permit: \$10 per event

If operating for less than 30 minutes at a location...

### Where they are allowed...

- All zone districts

### What you need to get approved...

- No zoning permit is required

If providing catering services, and no general sales to the public, as part of a private party...

### Where they are allowed...

- Allowed as an accessory use in all zone districts

### What you need to get approved...

- No zoning permit is required

### More info...

Denver Development Services  
 Email: [development.services@denvergov.org](mailto:development.services@denvergov.org)  
 201 West Colfax Ave  
 Dept. #203  
 Denver, CO 80202

### References:

Denver Zoning Code  
[www.denvergov.org/zoning](http://www.denvergov.org/zoning)  
 Article 11, Section 11.11.14, Retail Food Establishment, Mobile  
 Definition: Article 13, Section 13.3



**TO:** Planning Department customers

**SUBJECT:** Customer Bulletin #104 – Mobile Food Establishments

**DATE:** February 11, 2013, *last revised May 17, 2013 – adding section 4 to the document*

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The purpose of this Customer Bulletin is to inform customers of existing City Code provisions allowing for a mobile food establishment as a temporary use within the City Limits and related County and State requirements for this type of business. These policies shall be used on an interim basis until such time that the Unified Development Code (UDC) is amended to further specify this use.

On May 11, 2010 the UDC was amended to include a temporary use provision for “Mobile or Outdoor Food Vendor.” Another city code section addresses itinerant merchants. An itinerant merchant, by definition in Section 6.50.010, last amended in 2005, does not include a use permitted by as a temporary use in the UDC and therefore does not apply to mobile food vending.

*Itinerant merchant means any person who exhibits, displays, sells or offers for sale any “Commodity” from a “Stand” located on public or private property or on the “Streets” of the City of Georgetown. This definition does not include:*

- (i) A door-to-door “peddler” or “solicitor” as defined in Subsections [CHAPTER 6.16. - PEDDLERS AND SOLICITORS](#) (A) or (B) of the City Code of Ordinances,
- (ii) Activities authorized by an “Event Permit” issued pursuant to [CHAPTER 12.24. - EVENTS AND CELEBRATIONS](#) of the City’s Code of Ordinances; or
- (iii) “Temporary uses” permitted pursuant to <https://udc.georgetown.org/files/2008/10/UDC-122011-Chapter-5-Zoning-Use-Regulations1.pdf> of the City’s Unified Development Code.

### **1. Unified Development Code provisions**

As provided in UDC Sections 3.11 and 5.08, the City may permit mobile or outdoor food vending within the City Limits in the C3, BP, IN, PF, MU DT and MU zoning districts. To determine the zoning on a particular piece of property you may use the online zoning district map at <http://maps.georgetown.org/interactive-maps/>. As you identify a viable location, please note that commercial business activities are prohibited within city parks with the exception of those approved through exclusive contracts for concessionaires and youth groups at athletic facilities.

UDC Section 16.02 provides the following definition: “Mobile or Outdoor Food Vendor. A vehicle-mounted food service establishment that is designed to be readily movable, including push

*carts, mobile kitchens, hot dog carts, pretzel wagons, etc. Foods are limited to prepackaged or commissary prepared food unless the unit is equipped and approved by the County Health District (WCCHD) to handle food preparation. Any unit that requires direct hand contact with food shall have a hand washing sink."*

The UDC provides several general criteria to evaluate the appropriateness of a request for any Temporary Use:

- Land use compatibility.
- Compliance with other regulations, such as fire code, plumbing code, electric code and similar public safety standards.
- Duration – the request should indicate the proposed time period. The duration period shall not exceed 90 days as indicated in subsection 3.11.030 (C), however a request may be renewed after 90 days for a site without unresolved code violations.
- Traffic circulation.
- Off-street parking.
- Public conveniences and litter control – including access to restroom facilities for both employees and customers, disposal of waste and cooking by-products.
- Appearances and nuisances.
- Signs.
- Any additional conditions to minimize potential impacts.

Minimum items specifically related to mobile food establishment that must be addressed include:

- Location.
- Days/hours of operation.
- Access to a permitted commissary for food storage, preparation and disposal.
- On-site waste management, including City Code Section 8.12 available online at: [CHAPTER 8.12. - FOOD SANITATION](#)
- Parking and placement – include in the conceptual site plan the location of all-weather surfaces compliant with Texas Commission on Environmental Quality (TCEQ) standards for the food vendor and customer parking as well as ADA compliant access. Any outdoor deep fryers, grills or smokers shall be placed on an all weather surface. Shared parking may be considered pursuant to the procedures outlined in Customer Bulletin #105 <https://planning.georgetown.org/files/2013/04/Bulletin-105-Shared-Parking-Agreements.pdf>
- Utilities – conceptual site plan shall indicate a locations of electric, gas, water, and sewer sizing (indicate capacity) and paths of any cooking-grade hoses.
- Fire Safety:
  - \* Fire hydrant locations must be included on the conceptual site plan.
  - \* A fire inspection shall be required for each food service vehicle/trailer.
  - \* See also attachment 1 titled Mobile Vendor Fire Safety Guidelines.
- Lighting locations must be marked on the conceptual site plan.
- Signage.
  - \* Additional sign limitations may apply in the downtown and historic districts.

- Restroom access – locations to be shown on the conceptual site plan; if unable to provide restrooms, an applicant may enter into an agreement with another property owner to provide restroom access for employees and customers.
- Property owner(s) authorization for temporary use.
- Insurance/indemnification.

A mobile food court that is a congregation of two or more mobile food establishments should include the following additional items within the conceptual site plan:

- Fire separations: a minimum of 20 foot separation between any permanent structure and the mobile food service vehicle/trailer and a 10 foot separation between each mobile food service vehicle/trailer.
- Fire lanes and apparatus routes.
- Hand washing stations (not just hand sanitizer).
- Food truck/trailer wastewater disposal – routes for any service vehicles.
- Wastewater disposal plan – note: cooking wastewater is not considered gray water and must be emptied daily in accordance with County and State law.
- Information on any proposed live entertainment, such as bands, DJs, music amplification, outdoor dancers and performers, singing wait staff and similar activities that might occur outdoors. A separate noise waiver permit may be required.
- Historic district appropriateness, if applicable.
- Location of any outside fryers, grills or smokers, which require an all-weather surface and therefore are included in impervious cover calculations.
- Location and dimensions of ADA compliant publically accessible routes of ingress/egress to each mobile vending unit.

The above listed items are provided as a courtesy. Each individual mobile food site must be reviewed by the City’s Planning staff to ensure land use compatibility, public safety and mitigation of potential adverse impacts in the spirit of the current, adopted Unified Development Code and the 2030 Comprehensive Plan.

## **2. Temporary Use Procedures:**

- The Temporary Use Permit Application for a mobile food establishment shall be submitted to the Planning Department in conformance with the provisions in the Development Process Manual, which is available online at <https://udc.georgetown.org/files/2008/10/Application-Checklists-Subdiv-thru-Z-Jan-2013.pdf> . As indicated in the Manual this includes a Conceptual Site Plan prepared to scale.
- A separate Temporary Use Permit Application is required for each and every location of a mobile food establishment. A congregation of multiple mobile food establishments in a “mobile food court” may be permitted on one property pursuant to a Temporary Use Permit, provided that each individual mobile food establishment fulfills the permit requirements described in Section 3 of this Bulletin (below) and a site layout scheme is

submitted demonstrating conformity to the requirements outlined in this Customer Bulletin.

- Parking for a temporary use shall comply with Section 5.08 of the Unified Development Code, which includes a site plan. The application process for Site Plan approval may be found in the Development Process Manual available online at <https://udc.georgetown.org/files/2008/10/Application-Checklists-R-thru-Stormwater-Jan-2013.pdf>
- Authorization of use by the property owner(s) must be submitted in writing. The process to request permission to encroach into City property or City right of way is provided in the Development Process Manual <https://udc.georgetown.org/files/2008/10/Application-Checklists-A-thru-Q-Jan-2013.pdf>
- The current fee for a Temporary Use Permit is \$110 per request. The fee must be submitted at the time of the application. Any renewals are subject to the \$110 fee.
- Once submitted, the Temporary Use Permit will be routed to the appropriate staff for review in the City's Planning Department and Inspections Department (including fire, electric, engineering, plumbing, and utilities). After staff review, you will be notified that your request is approved, approved upon satisfaction of additional requirements/conditions, or that the request has been denied. Any resubmittals to address staff comments should be done comprehensively – specifically with corrections to plans to address deficiencies, notation changes and similar response comments. Partial submittals that piecemeal the comments to be addressed will not be accepted.
- If a request for Temporary Use is denied, an appeal may be filed with the Zoning Board of Adjustment subject to the UDC appeals procedures in Section 3.14 of the UDC.
- For additional information please contact [planning@georgetown.org](mailto:planning@georgetown.org) or call (512) 930-3575.

**3. Other Permitting Requirements:**

- a. Trade Permits: Please note that the Temporary Use Permit is specific to allowing the mobile food establishment at the location provided in the application, subject to the operating conditions in the approval. Such authorization of use should not be interpreted as approval of any improvements on the site. Any requests for buildings, fences, signs, electric connection, plumbing and related trade permits shall be submitted and reviewed by the city's Inspection Department in accordance with the existing permitting processes. For more information see <http://inspections.georgetown.org/> For additional information on required permits please contact [inspection@georgetown.org](mailto:inspection@georgetown.org) or call (512) 930-2550.

***Bathroom Requirement***

*The City of Georgetown has adopted the International Plumbing Code. Section 403.1 of the Plumbing Code establishes the minimum number of fixtures required for varying types of occupancy.*

- b. As referenced above, any paving of a site is subject to the Planning Department's site plan process.
- c. County Requirements: Pursuant to UDC Section 3.11.010 (H), a mobile or outdoor food establishment is also subject to City Code Section 8.12 which is available online at [CHAPTER 8.12. - FOOD SANITATION](#)

Specifically the City of Georgetown Code of Ordinances requires obtainment of all permits and operational requirements of the Williamson County and Cities Health District (WCCHD). The Williamson County application form for a Mobile Food Establishment (MFE) is available at:

[http://www.wcchd.org/docs/Mobile\\_Food\\_App\\_Procedure\\_070512.pdf](http://www.wcchd.org/docs/Mobile_Food_App_Procedure_070512.pdf) Please note the WCCD requirement that a permitted Central Preparation Facility (also known as a "Commissary") is required for food handling conducted by a MFE as well a restroom facility requirement as well as compliance with all "local plumbing codes." The County's permitting guidelines are available online at [http://www.wcchd.org/docs/Unrestricted\\_Mobile\\_070512.pdf](http://www.wcchd.org/docs/Unrestricted_Mobile_070512.pdf). For more information on the WCCHD requirements please call (512) 943-3620.

Numerous mobile food commissaries operate in the Greater Austin metropolitan area that provide cold or dry storage, ovens, stoves, mixers, refrigerators, freezers and preparation areas as well as facilities to dispose of gray water, grease and other waste. Commissaries are privately operated business enterprises and therefore the City of Georgetown cannot exercise any favoritism to recommend one facility over another.

- d. State requirements: As provided in the WCCHD requirements, MFEs shall also comply with Texas Administrative Code Title 25, Part 1, Chapter 229, Subchapter K, Rule 229.169 which may be viewed online at <http://bit.ly/Sosstate>. Subsection (b) of this rule further specifies the commissary requirements of mobile food vending.
- e. Alcohol sales: Alcohol sales affidavits must be routed through the City Secretary's Office using existing Texas Alcoholic Beverage Commission (TABC) procedures. With the exception of alcohol sales permitted for special events, in accordance with TABC Title E, Chapter 11, alcohol sales may be only be permitted at buildings at permanent locations. Among the various State requirements is a requirement that licensed alcohol sales establishments comply with the Americans with Disabilities Act (ADA). Due to the various State provisions, alcohol sales cannot be permitted as a temporary use with a mobile food establishment however, an interested party may pursue building permits to establish a restaurant or bar through existing avenues. For more information on State alcohol sales requirements you may contact the local TABC office at (512) 451-0231.

#### **4. Exceptions:**

The Planning Department's Temporary Use Permit procedures described in Sections 1 and 2 above of this Customer Bulletin shall not apply to the situations described in subsection a, b

or c below, however, the provisions of section 3 above titled “Other Permitting Requirements” shall still apply:

- a. Food vendors associated with special events. See [CHAPTER 12.24. - EVENTS AND CELEBRATIONS](#) of the City's Code of Ordinances
- b. Seasonal product sales, such as Snow Cone vendors, as defined in Chapter 16 of the Unified Development Code provided that all licenses and permits are obtained from the Williamson County Health District. Seasonal uses are permitted as Temporary Use Permits by the City of Georgetown Inspections Department.
- c. Mobile vendors that operate exclusively within public rights of way that do not park or stand at one location, such as an Ice Cream Truck, provided that the vehicle is properly licensed and inspected and all licenses and permits are obtained from the Williamson County Health District, the State of Texas and further provided that the vehicle is operated and maintained in accordance with all applicable motor vehicle and transportation codes.

**5. Summary:**

This Customer Bulletin has been prepared as a courtesy for Department customers to describe existing code provisions and permitting requirements for mobile food establishments. This bulletin will periodically be reviewed and updated to reflect changes to the permitting requirements, new technologies and will be superseded at such time that a new ordinance is adopted relative to mobile food establishments. This informational Bulletin in no way replaces or supersedes any ordinance, order or regulation adopted by the City of Georgetown, Williamson County or the State of Texas.

## Attachment 1

### MOBILE VENDOR FIRE SAFETY GUIDELINES

#### LPG, PROPANE

Food Truck – Maximum of 200 gallons LPG located in an ASME motor fuel cylinder within a vented compartment and located in front of the rear axle and behind the front axle.

Food Trailer – Maximum of 200 gallons LPG located outside but mounted upon the trailer.

- LPG cylinders shall not exceed 100 pounds.
- LPG cylinders shall have an approved label and listed shut-off valve.

(All LPG requirements follow the requirements as provided for by the Texas Railroad Commission)

#### COOKING

- Food trucks/trailers which perform cooking operations which produce grease laden vapors shall be provided a Type 1 kitchen hood with ventilation.
- Type 1 kitchen hoods shall be protected by a UL300 or UL300A fixed fire extinguishing system. Fixed fire extinguishing systems shall be currently inspected by a Texas licensed fire extinguisher company.
- All cooking appliances shall be of an approved type, listed and labeled for the use intended.
- Appliances shall be installed in accordance with the manufacturer's installation instructions.
- Coleman stoves or equivalent are prohibited.
- Cooking appliances shall have an approved, labeled and listed on-off valve.
- LPG piping shall be of an approved, labeled and listed type for use with the cooking appliances. Rubber type hoses shall not be allowed. All piping shall be in accordance with NFPA 58 and shall be protected against physical damage.
- Hot water tanks or water heaters shall be installed in accordance with the International Plumbing Code and manufacturer's installation instructions and shall include venting of the tank.
- All LPG cylinders shall be protected from damage and secured upright.
- There may be no storage of LPG cylinders inside trucks and/or trailers.
- All valves must be turned off when appliances/cylinders are not in use.
- Prior to initial use, all connections must be tested (may be done with a soapy solution).
- Solid fuel cooking is prohibited.

#### FIRE PROTECTION

- At least one portable fire extinguisher with a minimum of 18 pounds of dry chemical of the ABC rating shall be provided for the protection of the LPG. The extinguisher shall be accessible and shall be inspected yearly by a Texas licensed fire extinguisher company.
- At least one portable fire extinguisher of the 2A10B:C rating shall be accessible to the interior of the food truck/trailer. The extinguisher shall be inspected yearly by a Texas licensed fire extinguisher company.
- Fixed fire extinguishing systems shall be accompanied by a compatible Class K portable fire extinguisher. The Class K portable fire extinguisher shall be inspected yearly by a Texas licensed fire extinguisher company.

**ELECTRICAL**

- Extension cords shall not be utilized. Appliances shall be plugged directly into electrical outlets.
- All electrical outlets with 6 feet of a wet location shall be ground fault circuit interrupter (GFCI) protected. All exterior outlets shall be GFCI protected.

**HOUSEKEEPING**

- Trash containers should be emptied regularly.
- Clean all cooking surfaces regularly to prevent the build-up of grease.

**ADDITIONAL SAFETY TIPS**

Know where the fire extinguisher is located and how to use it.

Don't leave food cooking unattended.

Don't wear loose-fitting clothing when cooking.

In case of an emergency, call 9-1-1.

For more information on Fire Safety requirements please contact Don Jansen, Fire Code Plans Examiner for City of Georgetown, (512) 930-8453.



# Planning & Development

October 2011

## Food Truck - Quick Reference Guide



Mobile food trucks are permitted on private property in the City of Raleigh provided certain standards are met. Proper zoning must be in place, certain development standards must be met, and appropriate permits must be issued. This is a user-friendly guide to assist in explaining the permitting process and regulatory framework around the use of food trucks. For a complete process description, please go to [www.raleighnc.gov](http://www.raleighnc.gov) and use the key word search "Food Trucks".

To locate on a property in one of these zoning districts, the property must have a primary use. An example of a primary use would be a building with an active use, or an improved stand-alone parking lot. An unimproved grass or dirt lot is not a primary use. Food trucks may not conduct sales while parked on a public street. The only exception to this is when the City Council has approved a temporary street closing for a City-sponsored or neighborhood event.

with proof of a City business license, NC sales and use certificate, Wake County vending permit, and may require the approval of a City home occupation permit.

**3. Business License:** Allows vendor to operate a business in the City of Raleigh.

Copies of food truck permit, the zoning permit and site or plot plan for all sites of which the food truck has received owner approval for vending must be kept on the food truck at all times. Each of these permits must be renewed annually on July 1st.

### Required Permits and Licenses:

**1. Zoning Permit:** Provides specific information regarding the location of the food truck. The zoning permit must be signed by the property owner, and completed and submitted along with a site plan or plot plan. If a property owner has a property large enough to accommodate more than one food truck, only one zoning permit is required to be submitted showing the location of all food trucks.

**2. Food Truck Permit:** Allows operation of food truck in the City. Food truck permits must be submitted

### Maximum Number of Trucks per Property:

- For parcels less than a 1/2 acre in size, only one food truck is allowed on the property at the same time. Properties between 1/2 and 1 acre in size may have two food trucks at the same time.
- For parcels over 1 acre in size, a maximum of three food trucks are allowed on the property at the same time.
- Outdoor seating associated with a food truck is only permitted on lots at least two acres in size or greater.

### Food Truck Description

A food truck is a licensed, motorized vehicle or mobile food unit which is temporarily stored on a privately-owned lot where food items are sold to the general public. Food trucks are permitted in several zoning districts:

1. Shopping Center
2. Neighborhood Business
3. Business
4. Thoroughfare District
5. Industrial-1
6. Industrial-2

## Food Truck Locations:

- 100 feet from the front door of any restaurant and/or outdoor dining area
- 50 feet from any permitted mobile food vending cart location
- 15 feet from any fire hydrant
- 5 feet away from any driveway, sidewalk, utility box or vault, handicapped ramp, building entrance or exit or emergency call box.

## Parking of Food Trucks:

The approved location for the parking trucks, as shown on the zoning permit, must be physically marked. The food truck parking space can be marked with paint, tape or any other easily identifiable material. Food trucks may not be parked in an approved location after hours of operation. (See below)

## Hours of Operation:

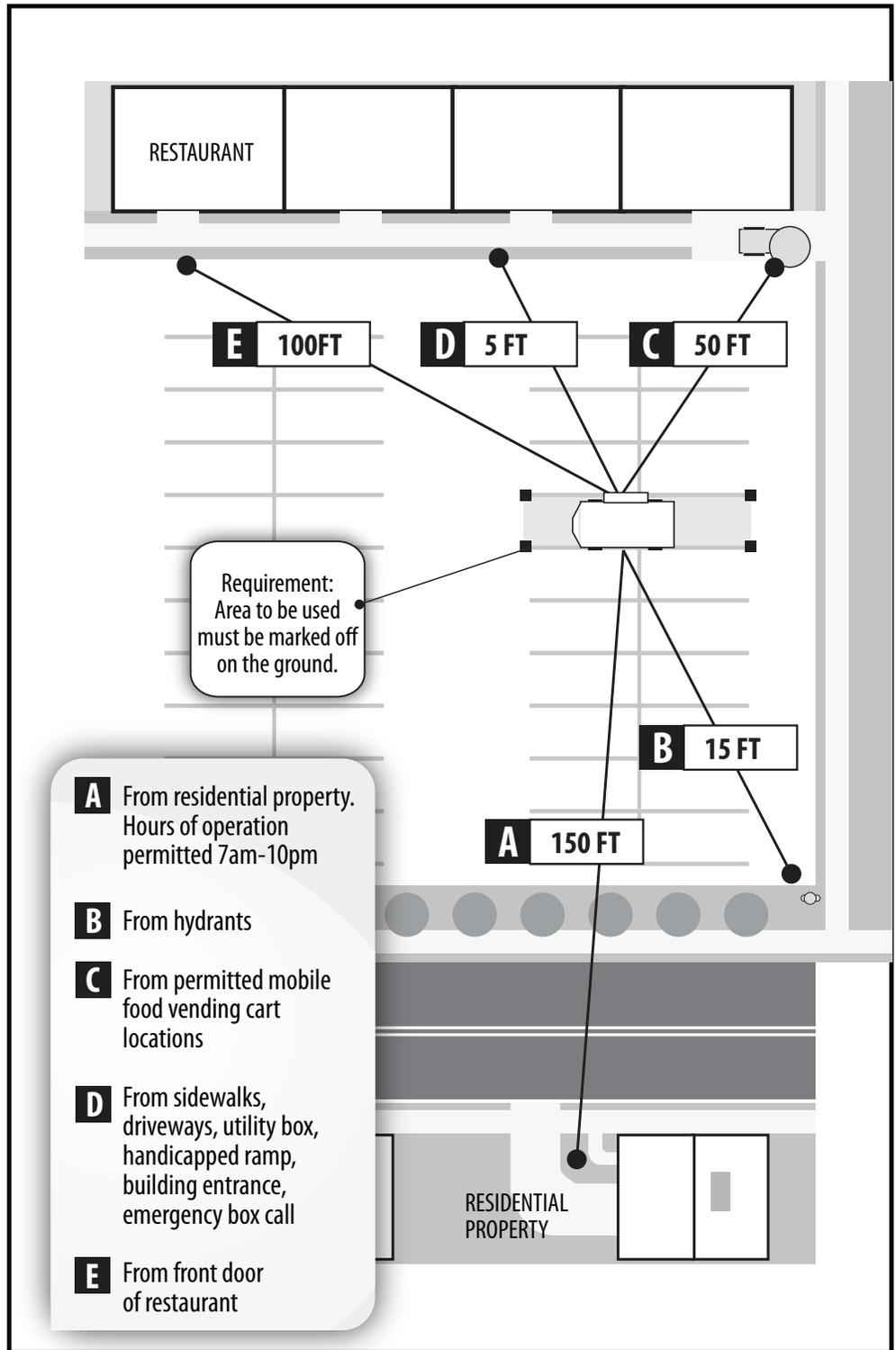
- 6 a.m. and 3 a.m. for food trucks in commercial locations
- 7 a.m. and 10 p.m. for food trucks located within 150' of a residential dwelling

## Prohibitions:

- No audio amplification
- No free standing signage
- City trash receptacles may not be used to dispose trash or waste
- All areas within 5 feet of the food truck must be kept clean
- Grease and liquid waste may not be disposed in tree pits, storm drains, the sanitary sewer system or public streets.
- Food trucks are all subject to the city-wide noise ordinance. Sound absorbing devices may be used to contain or deflect the noise from external generators.

## Violation of Zoning Ordinance:

- 1st offense - \$100 fine
- 2nd offense - \$300 fine
- 3rd violation will result in loss of permit



## Contact Information

Permit Issuance - City of Raleigh Development Services Division 919.516.2495  
 Business License - City of Raleigh Revenue Services Division 919.996.3200  
 Wake County Vending Permit – Wake County 919.856.5999  
 North Carolina Sales Tax – North Carolina Revenue Department 1.877.252.3052





THE CITY OF SAN DIEGO

HOW TO OBTAIN A PERMIT FOR A

# Mobile Food Truck

CITY OF SAN DIEGO DEVELOPMENT SERVICES  
1222 FIRST AVENUE, MS 301 SAN DIEGO, CA 92101-4101

INFORMATION  
BULLETIN

# 148

SEPTEMBER 2014

This information bulletin describes the approval process and submittal requirements for Mobile Food Trucks.

## I. MOBILE FOOD TRUCKS

Mobile food trucks are motorized vehicles from which food or drink (prepared on-site or pre-packaged) is sold or served to the general public, whether consumed on-site or elsewhere. They are retail food facilities and health regulated businesses subject to San Diego Municipal Code Chapter 4, Article 2, Division 1 and Land Development Code (LDC) Section 141.0612.

Other types of commercial service or vending from vehicles are not provided for by citywide zoning and are subject to the prohibitions and regulations in Chapter 5, Article 4, Division 1.

## II. APPROVALS REQUIRED

**A.** Mobile food truck operators shall obtain a Health Permit from the County of San Diego (San Diego County Code - Title 6, Division 1).

**B.** Mobile food truck operators shall maintain a valid business tax certificate issued by the City Treasurer. (Non-profits are exempt).

**C.** Most operations are exempt from a City permit. However, property owner authorization is required for any mobile food truck activity on private property, regardless of whether or not a permit is required. In accordance with SDMC Section 141.0612(f), no City permit is required for the following:

1. Operations within the public right-of-way in accordance with SDMC Section 141.0612.
2. Operations in industrial zones or commercial office zones.
3. Operations on the property of a school, university, hospital, or religious facility with the written consent of the property owner or authorized school official.
4. Operations in RM-3, RM-4, and RM-5 zones in association with a multiple unit development with 16 or more dwelling units with the written consent of property owner or authorized leasing office.
5. Operations serving an active construction site.
6. Catering of a private event as an offsite delivery service or in accordance with the limitations in SDMC Section 141.0612(d).

**D.** A Mobile Food Truck Permit issued by the Development Services Department (DSD) is

### Documents Referenced in this Information Bulletin

- San Diego Municipal Code, [\(SDMC\)](#)
- [Information Bulletin 122](#), How to Prepare a Site Plan and Vicinity Map
- Mobile Food Truck Permit Application, [DS-210](#)

required for mobile food truck operations on private property in certain areas with high pedestrian and vehicle activity, except where the mobile food truck operations are exempt from a City permit by SDMC Section 141.0612(f). One permit can cover multiple trucks on a single property.

**E.** A Special Events Permit issued by the Special Events Director is required for any mobile food truck operations that would result in the assembly of 75 people or more on public property. (See SDMC Section 22.4004).

**F.** Additional permit options:

1. A Temporary Use Permit may be requested for a seasonal or limited time event (maximum of two events per year) in a location the use would not be permitted per the underlying zone.
2. A Neighborhood Use Permit may be requested for approval to deviate from the requirements in SDMC Section 141.0612.

## III. LOCATIONS

**A. DOWNTOWN.** Mobile food trucks are permitted in a majority of downtown.

1. Approval from Civic San Diego is required to operate on private property (i.e. surface parking lots). Please contact Civic San Diego at (619) 235-2200 to obtain an approval stamp on the site plan prior to submitting a Mobile Food Truck Permit Application to DSD.
2. On-street mobile food truck operations are exempt from the requirement for a permit.
3. Daily operations are not permitted in the following special character areas, unless authorized as part of a special event:
  - a. Gaslamp Quarter Planned District.** The boundary is approximately 8 blocks located along 5th Avenue;
  - b. Little Italy Neighborhood NC Zone.** The boundary is approximately 6 blocks located along India Street;
  - c.** See Centre City PDO Figure 2 for the map.

Printed on recycled paper. Visit our web site at [www.sandiego.gov/development-services](http://www.sandiego.gov/development-services). Upon request, this information is available in alternative formats for persons with disabilities.

**B. PARKING IMPACT OVERLAY ZONE.** Mobile food trucks must operate off-street in accordance with the underlying base zone. Refer to the City's Official Zoning Map to identify the base zone for a specified location. Locations where the PIOZ applies:

- 1. **Beach impact area (Map C-731).** The boundary is generally defined by the first 2-3 blocks adjacent to all coastal beaches.
- 2. **Campus impact area (Map C-795).** The boundary is generally defined by the areas immediately surrounding San Diego State University, University of San Diego, and University of California San Diego.

**C. PLANNED DISTRICTS.** In accordance with SDMC Section 151.0401, mobile food trucks may be approved in accordance with the City wide zone (SDMC Chapter 13) that most closely meets the purpose and intent of the applicable planned district zone in terms of permitted uses and intensity of those uses.

**D. AIRPORT LAND USE COMPATIBILITY OVERLAY ZONE.** Mobile food truck operations cannot exceed established limits on the number of people in a safety zone. See SDMC Chapter 13, Article 2, Division 15.

**IV. SUBMITTAL REQUIREMENTS**

This section identifies the documents and plans that are required:

**A. Application**

Provide one copy of the Mobile Food Truck Permit Application (DS-210).

**B. Site Plan**

Site Plan must be fully dimensioned, drawn to scale, and at least 11"x17" size. Provide one copy.

**1. Development Summary**

Provide, in a table format, the following development summary information:

- a. The maximum number of mobile trucks being requested for approval.
- b. Legal description and Assessor Parcel Number(s) for the property on which the mobile food truck is proposed.
- c. Owner's name and address.
- d. The applicable zoning designation and all overlay zone designations.

**2. Site Plan**

A dimensioned site plan drawing showing the general layout of the proposed mobile food truck area. See Information Bulletin 122 for example.

- a. The general layout and dimensions of the mobile food truck area.
- b. Street, curb, sidewalk, property lines.
- c. Building(s) footprint with tenant spaces labeled with square footage/use type.
- d. Sufficient detail to demonstrate that the vehicle and pedestrian circulation within parking areas are not blocked, dimin-

ished or in any way altered as a result of the mobile food truck operation area.

- e. Sufficient detail to identify a level, paved area of a minimum dimension of 35 feet by 15 feet for each mobile food truck that is proposed to operate at the same time on the property. The area shall not include any parking spaces that are reserved, encumbered, or designated to satisfy the off-street parking requirement of a business or activity that would operate at the same time as the mobile food truck.

**C. Notice of Violation, (NOV).**

Provide one copy of any NOV's issued at the property address.

**V. SIGNAGE**

No signage other than that exhibited on or inside of the mobile food truck may displayed.

Mobile food trucks are required to post the County certification sticker and a notice stating "To report a violation, call City of San Diego Code Enforcement at (619) 236-5500". (Three (3) inch font minimum).

**VI. ELECTRICAL CONNECTION**

A mobile food truck operating on private property may utilize an electrical connection to maintain power as needed to maintain food storage in accordance with the California Retail Food Code health standards. However, the connection shall be made in a manner that does not create a trip hazard or other public safety hazard.

**VII. OPERATIONS MUST BE SELF CONTAINED IN THE VEHICLE**

Outside tables, seating or shade canopies may not be placed in the public right-of-way. Such development may only be permitted by operating in a location on private property where no Mobile Food Truck Permit is required (i.e. industrial zones or on school property), or by obtaining a Neighborhood Development Permit that specifically provides for such development.

**VIII. ALCOHOLIC BEVERAGE**

No sales or service of alcohol shall be allowed by mobile food trucks.

**IX. MOBILE FOOD TRUCK PERMIT FEE**

The fee for a Mobile Food Truck Permit will vary based on the complexity of the site context and the time necessary for staff review. All fees are based on the adopted fee schedule as it currently exists or as may be amended. Existing rates:

General Plan Maintenance Fee.....	\$275.00
Mapping Fee.....	\$10.00
Plan Check (4-hr. max).....	\$125.00/hour
Records.....	\$20.00
Issuance.....	\$39.00



SAN FRANCISCO  
PLANNING  
DEPARTMENT

# FREQUENTLY ASKED QUESTIONS

## STREET FOOD

### Regulations for Mobile Food Facilities

Trucks, carts, and other similar vehicles that sell “street food” are considered to be Mobile Food Facilities (MFF’s) under the Municipal Code. City regulations relating to MFF’s were the subject of a substantial overhaul under Ordinance Number 297-10, which took effect on January 2, 2011. This FAQ is a guide for prospective MFF operators and other interested parties. It does not supersede or interpret the Planning Code or any other part of the Municipal Code.

Date:  
JANUARY 2011

This document provides a generalized discussion of the permitting process for MFF’s which seek to operate on vacant lots, gas stations, and other unenclosed areas outside of the public right-of-way (i.e. not on streets or sidewalks).

**Inquiries regarding MFF applications on streets and sidewalks should be directed to the Department of Public Works’ Bureau of Street Use and Mapping at (415) 554-5810. The Planning Department is not involved in any such applications.**

**Is the Planning Department the only City Agency I need to talk to?**

No. All MFF applications must be reviewed by [1] the Department of Public Health’s Mobile Food Facility Program (available by phone at (415) 252-3825) and [2] if the MFF would contain any cooking, the Fire Department (available by phone at (415) 558-3303). Your business must also be registered with the Office of the Treasurer and Tax Collector. Further review may be required by additional agencies depending on the nature of your specific proposal. All required permits must be issued prior to commencing your operations.

**Can I operate on a property that someone else owns?**

Yes. However, in submitting an application to do so you are declaring under penalty of perjury that you have been authorized by the owner of the property to act as his or her agent.

**Do I need to know exactly where I want to operate?**

Yes. The City contains more than 70 different zoning districts, each with different regulations. The geographies of these districts are intricate and can vary from parcel-to-parcel even within a given block. As such, you will need to identify a particular parcel before your application can be reviewed. Additionally, you will need to identify the location of your MFF within the lot so that the Department can review your proximity to residential zoning districts as well as compliance with other Planning Code requirements.

## What rules will apply to me and what can I expect of the approval process?

There are two paths to lawfully establish an MFF. An applicant may select whichever path is more appropriate to his or her proposal.

1. *MFF as a permanent use.* Long-standing Planning Code provisions allow an MFF to be treated as if it were a bricks-and-mortar restaurant subject to conventional Planning Code provisions. These vary from zoning district to zoning district. For example, in mixed-use areas, an MFF may require a public hearing, neighborhood notification, or may be entirely prohibited. On the other hand, in the Downtown or industrial areas an MFF may be approved on an “as-of-right” basis without extensive public process.
2. *MFF as a temporary use.* Established as part of the recent overhaul ordinance, this path treats an MFF as an intermittent, temporary activity which can receive a renewable one-year authorization so long as the MFF is:
  - a. not located in residential zoning district,
  - b. not located in a building,
  - c. open for business only within the particular zoning district’s permitted hours of operation, and
  - d. is not physically on the property for more than either 3 days each week or, alternately, 6 days each week for a maximum of 12 hours a day.

Temporary MFF’s are subject to neighborhood notification requirements only if located in a Zoning District with notification requirements and: (1) all MFF’s on the property and their paraphernalia comprise more than 300 square feet, or (2) any part of the MFF or its paraphernalia are located within 50 feet of residential district.

## Which path is right for me?

This depends on the Zoning District in which the MFF is proposed and the nature of your particular proposal. However, many applicants will find it much faster and less burdensome to proceed as a temporary use.

## I want to operate inside a building or operate 7 days a week. What should I do?

If your application does not meet any of the requirements to be considered a temporary use, it can only be authorized as a permanent use.

## I need to go through neighborhood notice. What does this mean?

A site posting is required along with a 30-day mailed notice to owners and occupants of property within 150’ of the proposed location. During the 30-day period, interested parties can ask questions of you and the Department and, should concerns remain, can cause a public hearing to occur. At such hearing, if a concerned member of the public is able to demonstrate to the Planning Commission that extraordinary or unusual circumstances exist, the application may be modified or disapproved. More information is available in the “Section 311/312 Notification Application” on the Department’s web site ([www.sfplanning.org](http://www.sfplanning.org)).

## Where can I get more information? Should I do anything before filing my application?

We urge you contact the Planning Information Center (PIC) via telephone at (415)558-6377 or in person on the ground floor of 1660 Mission Street between Duboce and South Van Ness Avenues to discuss your particular proposal and the property in question. PIC staff will be able to verify zoning and identify any issues prior to the filing of an application.

## I’m ready to seek approval as a temporary use. What do I do first?

Complete and submit an application for a Temporary Use Authorization (TUA) to the PIC. TUA applications are available at the Department’s web site ([www.sfplanning.org](http://www.sfplanning.org)). A check will be required at the time of submittal to cover the application cost (discussed below). If you do not own the property, be sure that you have been authorized by the owner to act on his or her behalf.

## I’m ready to seek approval as a permanent use. What happens next?

If your application does not conform to the standards for a temporary use and/or you wish to seek authorization as a permanent use for other reasons, the permit process will vary depending on the zoning of the proposed location. Contact the PIC for additional information.

### Can I be approved to vend in a City park?

Sometimes. Because the City acts as a de-facto landlord in such cases, you will need to first obtain permission and comply with the rules and regulations of the Recreation and Parks Department (available by phone at (415) 831-2774). As with other applications, the proposal will be subject to review by the Planning Department for consistency with the Planning Code, with the exception that temporary MFF's in large parks are not subject to the same time limits applicable to temporary MFF's elsewhere.

### How do I operate in more than one location?

A separate application is required for each proposed location. Planning Department authorizations are tied to a piece of real property rather than a business or particular MFF.

### How much will the permitting process cost?

Fees for all Planning Department services, including review of TUA applications, can be found in our Fee Schedule which is available at the Department's web site at ([www.sfplanning.org](http://www.sfplanning.org)).

### How long will it take?

Temporary Use Authorizations are often approved over-the-counter. Authorizations for permanent uses, depending on the Zoning District in which the use is located and associated requirements, generally necessitate anywhere from one week to four months or more.

### Do I really need permits?

Absolutely. The Planning Code authorizes penalties of up to \$250 each day that a violation exists. This penalty is supplemented by those authorized under the Health, Building, Fire, and Public Works Codes.



SAN FRANCISCO  
PLANNING  
DEPARTMENT

#### FOR MORE INFORMATION: Call or visit the San Francisco Planning Department

##### Central Reception

1650 Mission Street, Suite 400  
San Francisco CA 94103-2479

TEL: **415.558.6378**  
FAX: **415 558-6409**  
WEB: <http://www.sfplanning.org>

##### Planning Information Center (PIC)

1660 Mission Street, First Floor  
San Francisco CA 94103-2479

TEL: **415.558.6377**  
*Planning staff are available by phone and at the PIC counter.  
No appointment is necessary.*

# Frequently Asked Questions about the City of Austin's Mobile Food Establishment Ordinance

## Overview of the Mobile Food Establishment Ordinance

- [A mobile food establishment must be licensed by the Austin Public Health.](#)
- Is allowed in a commercial zoning (LR, GR, CS, CS-1, DMU, and CBD) and industrial zoning (LI) districts except Neighborhood Office (NO), Limited Office (LO), or General Office (GO).
- May not be located within 50' of a building that contains both residential and commercial uses.
- They may be allowed to operate any time except between the hours of 3:00 AM and 6:00 AM.
- May not be located within 20' of a restaurant located in a building.
- The mobile food establishment may not have a drive-through.
- Lighting must be shielded so as to not be directly visible to a residential use.
- All signs must be mounted flat against the mobile food establishment.
- A trash receptacle must be available during business hours and the area around the mobile food establishment must be kept free of litter and debris.
- Permanent water and waste water lines are not allowed.

## Intent of the Mobile Food Establishment Ordinance

The intent of this ordinance is to regulate mobile food establishments, most often trailers located in parking lots or vehicles that drive from one location to another.

## Neighborhoods and the Mobile Food Establishment Ordinance

**Q: Can neighborhoods recommend adopting more restrictive or additional regulations for mobile food establishments?**

Yes, additional regulations can be adopted that further define the location and hours of operation for mobile food establishments. A City of Austin-recognized neighborhood plan contact team or [a neighborhood association registered with the City of Austin](#) may request that the following set of regulations be adopted for a given area:

## Frequently Asked Questions about the City of Austin's Mobile Food Establishment Ordinance

- A mobile food establishment must be located 50' or further from property zoned SF-1 through SF-5 or further than 50' from where townhouses, duplexes, or single-family houses are located.
- A mobile food establishment may operate between the hours of 6:00 AM and 10:00 PM if it is further than 50' and not more than 300' from a property zoned SF-1 through SF-5, or where townhouses, duplexes, and single-family houses are located.
- A mobile food establishment may operate between the hours of 6:00 AM and 10:00 PM if it is further than 50' and not more than 300' from a property where townhouses, duplexes, and single-family houses are located.
- A mobile food establishment may operate between the hours of 6:00 AM and 3:00 AM if it is located more than 300' from property zoned SF-1 through SF-5 or further than 300' from where townhouses, duplexes, or single-family houses are located.

Once these additional regulations are recommended to the City Council and the City Council votes to adopt them for the specific areas of the city mobile food vendors within the area have 60 days to comply.

### ***Q: How can I find out what neighborhoods have been approved for these additional regulations?***

The City of Austin maintains a [map](#) that depicts the areas to which these additional regulations apply.

### ***Q: How can my Neighborhood Association or Neighborhood Planning Area Contact Team apply to be placed on the Mobile Food Area Map?***

There are two ways a [registered neighborhood association](#) or City of Austin-recognized contact team may request these additional regulations for their area:

- 1) During the neighborhood planning process, these additional regulations can be requested; or
- 2) Submit an application during the open filing period in February of each year.

A Mobile Food Establishment application can be found at: [http://www.austintexas.gov/sites/default/files/files/Planning/Applications\\_Forms/mfv\\_app.pdf](http://www.austintexas.gov/sites/default/files/files/Planning/Applications_Forms/mfv_app.pdf).

Applications may be hand delivered or mailed to the Planning and Zoning Department offices at 505 Barton Springs Road, 5<sup>th</sup> Floor 78704.

# Frequently Asked Questions about the City of Austin's Mobile Food Establishment Ordinance

## *The City of Austin and the Mobile Food Establishment Ordinance Application, Enforcement, Penalties*

***Q: Who can submit an application to the city requesting additional mobile food regulations?***

For an area with an adopted neighborhood plan, the chair of the official neighborhood plan contact team or an officer of a neighborhood association if there is no official neighborhood plan contact team. For an area without an adopted neighborhood plan, an officer of a neighborhood association. The neighborhood association must be registered with the Public Information Office and have association by-laws. Applications can be submitted during the open filing period in February of each year to the City of Austin, Planning and Development Review Department offices at 505 Barton Springs Road, 5<sup>th</sup> floor.

***Q: Will the City of Austin help me find a location for a trailer/cart?***

No. You must find a location on your own.

***Q: How can I find out the zoning on a property in order to comply with the mobile food ordinance?***

For information on the zoning district for a certain property, visit the [City of Austin Property Profile Tool](#).

For additional information regarding zoning information, please call the Development Assistance Center at (512) 978-4000.

***Q. Are there additional requirements for a food vending push cart located on a sidewalk or in a city park?***

Vendors with units selling food on city easements or sidewalks require an additional permit from the [Austin Transportation Department's ROW Management Division](#). More information on Food Vending is available in the [application packet](#). Vending on city park property is administered by the [Parks and Recreation Department](#). Please contact the main office at 512-974-6700 for more information.

***Q. Can Mobile Food Vendors sell alcohol?***

No, Mobile Food Vendors are vehicles which do not have certificates of occupancy and cannot legally sell alcohol. For a facility to sell alcohol for on premise consumption, the facility must have a certificate of occupancy for either Restaurant (General), Cocktail Lounge, or be a production brewery in an LI zoning district.

***Q: Who enforces the Mobile Food Ordinance?***

# Frequently Asked Questions about the City of Austin's Mobile Food Establishment Ordinance

[Austin Code](#) is the enforcement agency for this ordinance.

**Q: *Who do I call if I see someone violating the Mobile Food Establishment Ordinance?***

To report a suspected violation of Mobile Food Establishment Ordinance [contact 311](#) and ask for Austin Code. When calling, you must have a specific address.

**Q: *What are the penalties given for violating the Mobile Food Ordinance?***

In most cases, a single warning is given; however, if the mobile food vendor is a repeat offender, charges can be filed with the Municipal Court.



## INSTITUTE FOR JUSTICE

December 13, 2013

City of San Diego  
 Development Services Department  
 202 C Street  
 San Diego, CA 92101

Re: Reject proposed food-truck regulations

Development Services Department:

The Institute for Justice (“IJ”) is a public interest, civil liberties law firm that advocates in the courts of law and public opinion to vindicate the right to earn an honest living. As part of its National Street Vending Initiative, IJ has challenged laws in El Paso, Texas (which quickly repealed its proximity restriction in response to our lawsuit); Atlanta (which we recently won); Chicago; and Hialeah, Florida, that unconstitutionally restrict vendors’ right to economic liberty, which is protected by the U.S. Constitution’s 14<sup>th</sup> Amendment. IJ has published extensively on the benefits that street vendors provide, the barriers that too often stand in their way, and how cities can cultivate vibrant food truck scenes.<sup>1</sup> We also work with city councils and food truck operators across the country to reform local laws.

We write to encourage the Development Services Department to reject the proposed land use regulations and permit process for mobile food trucks. The proposal raises serious constitutional concerns and should be rejected in favor of narrowly tailored laws that are limited to protecting the public’s health and safety and address only congestion, trash and licensure. Specifically, the Institute opposes the 75-foot proximity restriction (that is, the requirement that food trucks on the public right-of-way not operate within 75 feet of the entrance to a street-level eating establishment without permission), as well as the proposed regulations’ prohibition on food trucks operating within the Gaslamp District and on public rights-of-way downtown, for the reasons detailed below.

The California Restaurant Association views the legislative process as a way to protect its members from competition, and is advocating for a ban on food trucks within a certain distance from their restaurants or in high-traffic areas for precisely that reason. However, protectionism is an illegitimate use of government power under the U.S. and California Constitutions. The Ninth Circuit Court of Appeals, whose jurisdiction includes San Diego, held as much in a lawsuit that challenged California’s licensing of pest exterminators. In ruling that the government cannot impose protectionist regulations that restrict individuals’ right to earn an honest living, **the Ninth Circuit ruled “that mere economic protectionism for the sake of economic protectionism is irrational.”<sup>2</sup> Indeed, California courts have invoked this principle in striking down a Los Angeles restriction that prohibited food trucks from operating within 100 feet of a restaurant.<sup>3</sup>** The recommended 75-foot proximity restriction is similarly unconstitutional and should be rejected.

<sup>1</sup> See, e.g., *Streets of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending*; *Seven Myths and Realities About Food Trucks: Why the Facts Support Food-Truck Freedom*; and *Food Truck Freedom: How to Build Better Food-Truck Laws in Your City*, all available at [www.ij.org/vending](http://www.ij.org/vending).

<sup>2</sup> *Merrifield v. Lockyer*, 547 F.3d 978, 992 n. 15 (9<sup>th</sup> Cir. 2008).

<sup>3</sup> *People v. Ala Carte Catering Co.*, 98 Cal. App. 3d Supp. 1, 9 (Cal. App. Dep’t Super. Ct. 1979).

Moreover, the Department should reject the proposed regulations that would prohibit food trucks from operating adjacent to sidewalks that are less than eight feet wide. Original research conducted by the Institute for Justice in Washington, D.C., revealed that food trucks do not have a demonstrable effect on sidewalk congestion.<sup>4</sup> Furthermore, in researching street-vending laws across the country, the Institute has not come across any other city with a eight-foot minimum sidewalk width requirement. Instead, the most common requirement is one that simply tells food trucks not to operate in a way that blocks the sidewalk—a requirement that Section 141.0612(b)(5) of the proposed regulations would accomplish. For more information on how to write constitutional food-truck laws that are clear, narrowly tailored and outcome-based, we refer you to *Food-Truck Freedom: How to Build Better Food-Truck Laws in Your City*. The recommendations are based on the legislative best practices of Los Angeles and other cities that have experience regulating food trucks. You can access the guide at [www.ij.org/food-truck-freedom](http://www.ij.org/food-truck-freedom).

San Diego should seize this exciting opportunity to create a law that will open your streets to the many benefits that food trucks have to offer your residents—and in doing so, lead the country in passing legislation that embraces both the street-food revolution and those aspiring entrepreneurs on the first rung of the economic ladder.

A vibrant food-truck industry benefits everyone. Food trucks put people to work, create opportunities for self-sufficiency, and enrich the communities in which they operate. They provide entry-level opportunities, allowing entrepreneurs to test ideas and accumulate capital needed to climb the economic ladder and realize their next opportunity: a brick-and-mortar restaurant. Vendors also contribute to the city's coffers by paying sales tax and payroll taxes, and can activate underused spaces, bring new life to communities and make them safer, more enjoyable places to live.

Moreover, the presence of food trucks actually boosts local businesses—including restaurants. Food trucks encourage people to come out onto the streets, increasing foot traffic for everyone. They also provide a new way to market and expand brick-and-mortar establishments. Claims that food trucks spell doom for local restaurants are not only unsupported, but are also contradicted by the experience of Los Angeles, which has enthusiastically welcomed mobile-food entrepreneurs and continues to experience growth and improvement in its restaurant industry.

San Diego's entrepreneurs, their employees and families, local businesses, and communities deserve to experience the benefits that food trucks provide. We encourage you to pass legislation that allows food trucks to operate freely, with regulations that are narrowly-tailored and limited to protecting the public's health and safety.

Please do not hesitate to contact me at (703) 682-9320 or [cwalsh@ij.org](mailto:cwalsh@ij.org). We look forward to working with you to ensure that *all* of San Diego's entrepreneurs are allowed the opportunity to thrive. Thank you.

Best,



Christina Walsh  
Director of Activism and Coalitions

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<sup>4</sup> See *Streets of Dreams* pp. 33-34.

# FOOD TRUCK

# FREEDOM

How to Build Better Food-Truck Laws  
in Your City



A FOOD TRUCK HOW TO.



By Robert Frommer & Bert Gall  
November 2012



# FOOD TRUCK FREEDOM

*How to Build Better Food-Truck Laws  
in Your City*



by Robert Frommer and Bert Gall  
Institute for Justice  
November 2012



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## FOREWORD

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This report is a project of the Institute for Justice's National Street Vending Initiative, which the Institute created in 2010 to promote freedom and opportunity for food-truck operators and other street vendors. The initiative also seeks to combat anti-competitive and protectionist laws that stifle the economic liberty of mobile-food operators and street vendors.

Through this initiative, the Institute has successfully fought protectionist restrictions in court, and it encourages cities to instead enact narrowly tailored laws that address legitimate public health and safety concerns while not stifling entrepreneurial drive and opportunity. (For current news about the initiative, go to <http://www.ij.org/vending>.) In 2011, as part of its educational efforts, the Institute published *Streets of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending*, which for the first time documented anti-competitive laws and regulations that restrict street vendors in the 50 largest cities in America.

In response to that report and the growing popularity of food trucks, officials and food-truck operators have asked for examples of good laws that allow the food-truck industry to flourish while also protecting public health and safety. The Institute for Justice, drawing on its research of food-truck laws nationwide, as well as its experience litigating vending cases and its discussions with food-truck operators, associations and government officials, created this document: *Food Truck Freedom: How to Build Better Food-Truck Laws in Your City*.





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## EXECUTIVE SUMMARY

America is experiencing a food-truck revolution. These mobile kitchens are a way for new and innovative chefs who are long on ideas but short on capital to try out new concepts and dishes. Thanks to their low start-up costs, food trucks give new entrepreneurs the opportunity to get into business for themselves at a fraction of what it would cost to open a restaurant. These new businesses offer consumers more dining options, create jobs, and improve the overall quality of life in their communities.

In order to foster the conditions that will let food trucks thrive in their cities, officials should remember the two principles of good food-truck policy: 1) no protectionism; and 2) clear, narrowly tailored, and outcome-based laws. The following recommendations—based on the legislative best practices of Los Angeles and other cities that have experience regulating food trucks—exemplify those principles.

**FOOD SAFETY:** The Institute for Justice recommends that cities follow their state and county health codes. To the extent the county or state food code does not deal with a specific issue, the Institute recommends that officials follow the requirements of Chapter 10 of the California Retail Food Code, which governs food trucks.

**FOOD-SAFETY ENFORCEMENT:** The Institute recommends that cities follow the approach of Los Angeles County, which inspects trucks both when they are first permitted and periodically when they are in the field. Inspectors should hold food trucks and restaurants to the same standards.

### **PARKING:**

**Proximity Restrictions and Restricted Zones:** Cities should not pass or retain laws that tell food trucks they may not operate either within a certain distance of a brick-and-mortar competitor or in select parts of the city. Protecting a few select businesses from competition is not a proper government role; instead, cities should regulate only to protect the public against actual health and safety concerns.

**Distance to Intersections:** The Institute recommends that cities follow the example of El Paso, Texas, which states allows food trucks to operate on the public way so long as they are not parked within 20 feet of an intersection.

**Use of Metered Parking Spaces:** The Institute recommends that cities follow the example of Los Angeles by allowing food trucks to operate from metered locations.

**Duration Restrictions (How Frequently Food Trucks Must Move):** The Institute recommends that cities follow the examples of Philadelphia and New York City, which do not force food trucks to move after a certain period of time.

**Potential Sidewalk Congestion:** The Institute for Justice recommends that cities follow the example of Los Angeles, which specifies only that food trucks not operate in a manner “which will interfere with or obstruct the free passage of pedestrians or vehicles along any such street, sidewalk or parkway.”

**REFUSE:** The Institute recommends that cities follow Los Angeles’ approach, which requires trucks to “pick up, remove and dispose of all trash or refuse which consists of materials originally dispensed from the catering truck” and to provide “a litter receptacle which is clearly marked with a sign requesting its use by patrons.” Cities should further specify the precise distance from the truck for which operators are responsible.

**LIABILITY INSURANCE:** The Institute recommends that cities follow the example of Los Angeles, which does not require trucks to purchase liability insurance beyond the amount required of all vehicles under state law.

**HOURS OF OPERATION:** The Institute recommends that cities follow Los Angeles' approach and not restrict when food trucks may operate.

**EMPLOYEE SANITATION:**

**Handwashing:** The Institute for Justice recommends that cities follow the example of Los Angeles County and the California Retail Food Code, which requires trucks to have handwashing stations if they prepare food, but does not require them on trucks selling only prepackaged foods like frozen desserts.

**Bathroom Access:** The Institute recommends that cities emulate Las Vegas, Charlotte and Portland, Ore., by not requiring that food trucks enter into bathroom-access agreements with brick-and-mortar businesses.

**COMMISSARY REQUIREMENTS:** The Institute recommends that cities follow the example of Portland, Ore., which exempts food trucks that carry all the equipment they need to satisfy health and safety concerns from having to associate with a commissary. For trucks that do require commissaries, the Institute recommends that cities follow Los Angeles County's approach of allowing trucks to share commissary space. Cities, however, should not follow Los Angeles County's practice of forbidding shared commercial kitchens, and should emulate the models put forward by cities like Austin, Texas, and San Francisco.

**LICENSING:**

**Application Process:** Cities should follow the licensing approach of Los Angeles County, which has a simple and straightforward application process. In terms of guidance, cities should emulate Boston and Milwaukee, which have both published step-by-step instructions to guide entrepreneurs through the licensing process.

**Cost:** The Institute recommends that cities should impose a flat annual fee in the range of \$200-300, as both Cleveland and Kansas City, Mo. have done. To the extent that a city issues licenses on a calendar year basis, its fee should be prorated so a truck first getting on the road halfway through the year would pay only half the full-year amount.

**Who the License Covers:** The Institute recommends that cities follow the example of Los Angeles County by licensing the overall vending business rather than the individual vendor.

**Limits on the Number of Permits Issued:** The Institute for Justice recommends that cities follow the example of Los Angeles and not limit the number of food-truck permits.

The specific laws and regulatory materials upon which these recommendations are based are discussed thoroughly in the pages that follow. Cities should implement these recommendations, which will both protect public health and safety and allow food-truck entrepreneurs to create and run businesses that will create jobs, increase customer choice, and boost the local economy.

AN ONLINE COMPENDIUM CONTAINING THE FULL LANGUAGE OF THE LAWS CITED IN THIS REPORT CAN BE FOUND AT [HTTP://WWW.IJ.ORG/VENDING](http://www.ij.org/vending).

## INTRODUCTION

The food truck revolution is sweeping the nation. In 2010, *The Economist* magazine predicted that “some of the best food Americans eat may come from a food truck.”<sup>1</sup> That prediction has become true. Gourmet trucks across the country are at the forefront of modern dining, serving affordable and delicious fare that rarely can be found at the neighborhood sandwich shop. In addition, food-truck “rallies” have become popular social events around the country, with events frequently drawing thousands of hungry customers.<sup>2</sup> These mobile kitchens are also powerful engines of economic growth. Together, food trucks directly employ thousands of people nationwide, and the trucks, equipment, and food they purchase generate millions in economic activity.

In its 2011 research report on street vending entitled *Streets of Dreams*, the Institute for Justice explained how street vendors, including food-truck owners, are creating jobs, satisfying customers and generally making their communities safer and more interesting places to live.<sup>3</sup> Below are just some of the benefits that food trucks are providing as their numbers grow in cities across the country:

- Food trucks create jobs, buy products and services from local businesses, and contribute sales taxes and permit fees to cities.
- Food trucks attract foot traffic to commercial districts—which means increased sales and a more vibrant retail-business environment overall.
- Food trucks serve as “eyes on the street” and make the street a safer and more enjoyable place to visit. Their presence can help prevent crime and revitalize underused public spaces.
- Food trucks give entrepreneurs with big dreams, but only a little capital, a way to start their own food-service businesses. In many instances, trucks serve as a stepping stone toward opening a brick-and-mortar space. Food trucks also give existing restaurants a new way to reach their customers.

Given the rapid growth of the food-truck industry, it is little surprise that city officials across the country have started to look for answers about how to regulate this new culinary trend. The purpose of this report is to provide those answers.

In Part I of this report, the Institute for Justice outlines two important general principles for regulating food trucks, and then discusses how those principles have led to a thriving food-truck economy in the city of Los Angeles, which has the best overall legal framework for food trucks in the country. In Part II, the report discusses how Los Angeles and other cities have addressed specific regulatory issues based on an Institute survey of the food-truck laws in the 50 largest cities in the United States. Using these examples, as well as discussions with government officials, food-truck owners and other stakeholders, the report then offers recommendations as to what cities’ laws are models that other cities should follow.

## TWO IMPORTANT PRINCIPLES FOR THE REGULATION OF FOOD TRUCKS

In this report, the Institute discusses a variety of specific vending issues. While the details of each city’s laws concerning these issues may vary, the Institute for Justice has found that the best laws typically follow the same pattern of 1) not protecting incumbent businesses from competition, and 2) providing clear, narrowly tailored and outcome-based rules that address actual health and safety issues.

### Principle #1: No Protectionism

Cities should not pass laws meant to protect established businesses from competition from food trucks. Some of the anti-competitive laws the Institute for Justice first identified

<sup>1</sup> Jon Fasman, *Trucking Delicious*, *THE ECONOMIST*, November 22, 2010, <http://www.economist.com/node/17493279>.

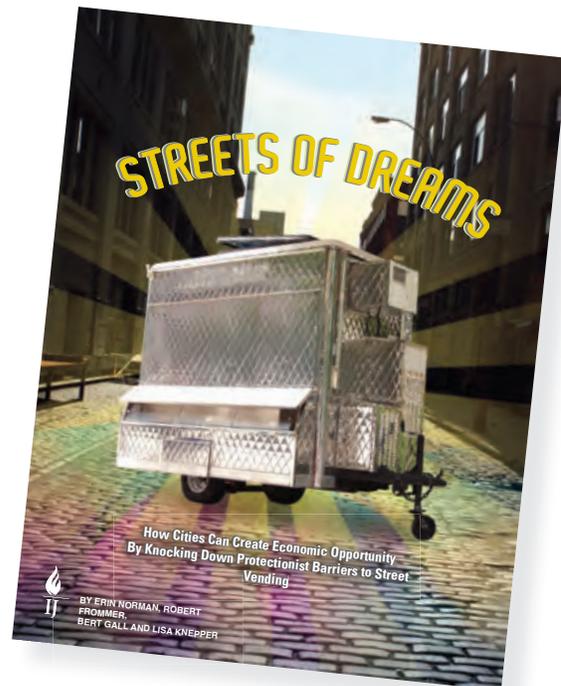
<sup>2</sup> See, e.g., Sarah Meehan, *Organizers hope to grow Baltimore, D.C. food truck competition*, *BALTIMORE BUSINESS JOURNAL*, June 25, 2012, <http://www.bizjournals.com/baltimore/news/2012/06/25/organizers-hope-to-grow-baltimore.html>.

<sup>3</sup> Erin Norman, Robert Frommer, Bert Gall & Lisa Knepper, *STREETS OF DREAMS: HOW CITIES CAN CREATE ECONOMIC OPPORTUNITY BY KNOCKING DOWN PROTECTIONIST BARRIERS TO STREET VENDING* (2011), <http://www.ij.org/streets-of-dreams-2>.

in *Streets of Dreams* prevent trucks from operating in certain commercial areas, require trucks to move after an arbitrarily short time, and even stop trucks from operating within a certain distance of their brick-and-mortar competitors. These protectionist laws do not help protect public health or safety. Instead, they stifle entrepreneurship, destroy jobs and hurt consumers both by raising prices and giving them fewer choices.<sup>4</sup>

Many of these laws are the result of lobbying by a few politically connected and powerful brick-and-mortar restaurants, which argue that since food trucks don't have the same costs in terms of rent and property taxes, they amount to "unfair competition." Of course, this argument ignores the fact that restaurants have many advantages over food trucks. No food truck, for instance, can offer its patrons heating or air conditioning. Trucks generally can't offer customers anywhere to sit. And since space on a food truck is limited, once a truck is out of forks, knives and other supplies, it's just out; there's no stockroom in the back to turn to.

With all these inherent advantages, restaurants don't need the additional advantage of government intervention to "protect" them from food trucks. Furthermore, enacting rules to protect some businesses from competition isn't just wrong, it's unconstitutional. Both the U.S. Supreme Court and numerous federal courts have held that it is illegitimate for state and local governments to pass laws that burden one set of businesses in order to benefit another, more politically powerful, group.<sup>5</sup>



IJ's 2011 vending publication, *Streets of Dreams*.

## Principle #2: Clear, Narrowly Tailored and Outcome-Based Laws

Cities should focus their efforts on enacting clear, narrowly tailored and outcome-based rules that address legitimate and demonstrable health and safety concerns. First, any laws that a city enacts should be drafted in a clear and easy-to-understand way. Clear laws are easier for food-truck operators to follow, since they need not guess at what the law requires or prohibits. They make it easier for new entrants to get permitted and on the road. And, lastly, clear laws are easier for a city to administer and create less risk that officials will apply vaguely worded restrictions in an unfair and anti-competitive manner.

Second, cities should enact narrowly tailored laws in order not to throw out the proverbial baby with the bathwater. In

<sup>4</sup> GLENN HUBBARD & ANTHONY PATRICK O'BRIEN, *ECONOMICS* 462-63 (4th ed. 2013) (explaining welfare effects of government barriers to entry).

<sup>5</sup> See, e.g., *Metro. Life Ins. Co. v. Ward*, 470 U.S. 869 (1985); *Craigsmiles v. Giles*, 312 F.3d 220 (6th Cir. 2002); *Merrifield v. Lockyer*, 547 F.3d 978 (9th Cir. 2008); *Cornwell v. Hamilton*, 80 F. Supp. 2d 1101, (S.D. Cal. 1999).

other words, putting rules in place that go no further than what is needed to solve the particular problem at hand. Overly broad and restrictive regulations don't better protect the public, but they can make running a business more difficult, if not impossible. One example comes up with regard to congestion. In New York City, the areas around theaters can often become quite crowded, particularly as theaters let out. New York's narrow solution is to prevent food trucks from operating at these specific locations during show time. By contrast, turning all of midtown Manhattan into a "no-vending zone" would be regulatory overkill and would appear to be born more out of protectionism than any legitimate concern for public health and safety.

Officials should also enact outcome-based regulations, rather than regulations that specify particular methods or processes.

Regulations that focus on results are simpler to follow and give food trucks an opportunity to figure out the best way to solve the problem. One example is how cities regulate trash. Although most cities require food trucks to pick up their refuse, a few cities painstakingly detail the kind of trash cans a truck should use and where they must be placed. This top-down approach stops trucks from coming up with creative solutions, and its one-size-fits-all nature means that some trucks will have to carry trash cans that are far larger and more unwieldy than what they actually need. Instead, cities should lay out their regulatory goal and then give the trucks flexibility in how they make that goal happen.

Ultimately, the prescription for food-truck success is simple: provide trucks with clear, narrowly tailored and outcome-based rules that address the public's legitimate health and safety concerns. And then step back and watch this new, dynamic industry, with its jobs, satisfied customers and revitalized public spaces, flourish. To see how these two principles have been applied in the real world, look no further than how the birthplace of the modern gourmet food-truck movement—the city of Los Angeles—regulates food trucks.



## CASE STUDY: LOS ANGELES

Of all the cities in the United States, few are more closely identified with the food-truck revolution than the City of Angels. For decades, “loncheros” served tacos, burritos and tamales to construction crews and the occasional office worker.<sup>6</sup> Then in late 2008, two entrepreneurs named Roy Choi and Mark Manguera came up with the idea for a Korean/Mexican fusion taco truck.<sup>7</sup> Naming their creation “Kogi,” the two struggled at first, frequently setting up outside nightclubs in Hollywood.<sup>8</sup> But soon Kogi went viral after Manguera and Choi started using Twitter to let people know where the truck would be at any given time.<sup>9</sup> Since then, Kogi has been a wild success and now has four color-coded trucks on the road.<sup>10</sup>

Other entrepreneurs quickly realized the potential that gourmet food trucks had to offer. Within a few years, numerous entrepreneurs began to roll out their own kitchens on wheels. Now Angelenos have access to trucks selling everything from Vietnamese Banh Mi sandwiches to Hawaiian shave ice and home-style macaroni and cheese. The public reception for the trucks has been overwhelming, and the advent of food trucks has in no way diminished L.A.’s vibrant restaurant culture. Instead, Zagat.com reports that restaurant customers believe that the area’s restaurant scene has improved.<sup>11</sup>

But a more-vibrant food scene is not the only gift the trucks have given Los Angeles. The growth in Los Angeles’ food-truck industry has created hundreds, if not thousands, of new jobs, both on the trucks themselves and also at the businesses that design the trucks, build them, and supply them with the equipment and ingredients that they need. Furthermore, having the food trucks out and about draws hungry customers outside as well, and as urban theorist Jane Jacobs pointed out, “a well-used street is apt to be a safe street.”<sup>12</sup> Lastly, food trucks are entrepreneurship incubators. Food trucks, with their lower capital costs, are a way for chefs to try out new cuisines and new ideas. Those owners who succeed often take their winning ideas one step further by expanding their businesses and sometimes opening brick-and-mortar spaces. As a result of his food-truck success, for instance, Kogi’s Roy Choi expanded his empire into brick-and-mortar locations, including his new restaurant named Chego.<sup>13</sup>

The food trucks’ success in the city of Los Angeles, along with the great benefits those trucks provide, show that L.A.’s regulatory framework is one that other cities would do well to emulate. What makes Los Angeles a success comes from its adherence to the two principles discussed above.

First, Los Angeles’ regulations are not designed to stifle food trucks for the purpose of protecting brick-and-mortar restaurants from competition. As discussed above, incumbent businesses often ask local governments to put roadblocks in the way of their new competitors. But Los Angeles’ code contains few if any anti-competitive restrictions. Unlike Chicago, San Antonio and New Orleans, for instance, Los Angeles does not say that food trucks cannot operate within a certain distance of their brick-and-mortar counterparts. This difference is partially due to an earlier ruling by a California court that such proximity restrictions are unconstitutional.<sup>14</sup> Likewise, Los Angeles does not require that food trucks must be hailed before they stop and serve customers. And it does not artificially restrict when food trucks may operate.

Furthermore, California law has helped protect the public against attempts at protectionist legislation. In July 2006, the city of Los Angeles passed an ordinance that ordered food trucks to move every 30 or 60 minutes depending on whether they were in a residential or commercial area.<sup>15</sup> The city began to stringently enforce the duration restriction in 2009, but it was soon rebuffed. On June 10, 2009, Judge Barry Kohn of the California Superior Court invalidated the ordinance because it expressly conflicted with the state vehicle code, which permits cities to regulate vehicle vendors only “for the public safety.”<sup>16</sup> A similar duration restriction in the Los Angeles County code had earlier met the same fate.<sup>17</sup>

6 Jesús Hermosillo, *LOCHERAS: A LOOK AT THE STATIONARY FOOD TRUCKS OF LOS ANGELES*, Sept. 2010, <http://www.labor.ucla.edu/publications/reports/Locheras.pdf>

7 Jessica Gelt, *Kogi Korean BBQ, a taco truck brought to you by Twitter*, L.A. TIMES, Feb. 11, 2009, <http://www.latimes.com/features/la-fo-kogi11-2009feb11,0,4771256.story>

8 Merrill Shindler, *Riding Shotgun with Kogi*, ZAGAT.COM, Apr. 6, 2009, <http://www.zagat.com/buzz/riding-shotgun-with-kogi>

9 Jessica Gelt, *Kogi Korean BBQ, a taco truck brought to you by Twitter*, L.A. TIMES, Feb. 11, 2009, <http://www.latimes.com/features/la-fo-kogi11-2009feb11,0,4771256.story>

10 Kogi BBQ-To-Go, <http://kogibbq.com/>.

11 Zagat.com, *Zagat Celebrates 25 Years in Los Angeles; 2,027 Restaurants Surveyed By 21,166 Local Diners*, Sept. 11, 2011, <http://www.zagat.com/node/3695295>.

12 See JANE JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* 34 (1992).

13 Chego!, <http://eatchego.com/>.

14 *People v. Ala Carte Catering*, 159 Cal. Rptr. 479 (Cal. App. Dep’t Super. Ct. 1979).

15 L.A. City Code § 80.73(b)(2)(F).

16 Cal. Vehicle Code § 22455(b); Press Release, UCLA School of Law, *UCLA School of Law Clinical Program wins case challenging validity of Los Angeles city ordinance implemented against food trucks*, June 10, 2009, <http://www.law.ucla.edu/news-media/Pages/News.aspx?NewsID=737>.

17 *People v. Garcia*, No. 8EA05884 at 5-6 (Cal. Sup. Ct. Aug. 27, 2008) (referring to Los Angeles County Code § 2.62.070).

Second, the laws that the city of Los Angeles does have in place are generally narrowly tailored to deal with actual health and safety issues, straightforward, and focus on results rather than on methods and processes. Together, the state, county and city have established rules to govern, among other things, what facilities and equipment a truck must carry on board, how it prepares food and where it may operate. In Los Angeles, the law does not micromanage trucks; instead, it merely requires that they obey the traffic rules applicable to all vehicles,<sup>18</sup> follow basic safety precautions<sup>19</sup> and pick up after themselves.<sup>20</sup> That said, some provisions of Los Angeles' laws are overly burdensome. The city's requirement that trucks not park within 100 feet of an intersection,<sup>21</sup> for instance, seems excessive, particularly since other communities allow for much more reasonable distances.<sup>22</sup>

## USING LOS ANGELES AS A STARTING POINT

Although they are not perfect, and have been the subject of fights both in council chambers and the courts, Los Angeles' food-truck regulations are generally a success. Los Angeles has avoided protectionist laws in favor of clear, narrowly tailored and outcome-based health and safety rules, and its approach should serve as a starting point for cities that are drafting their own food truck laws. On the next two pages, the Southern California Mobile Food Vendors' Association emphasizes the benefits of the approach. Then starting on page 14, the Institute for Justice will discuss various food-truck topics and explain where L.A. has done well, where it has gone awry, and where other cities might have a superior approach. The Institute will then go on to provide specific recommendations that cities can adopt to address the main public health and safety issues concerning food trucks.



18 L.A. City Code § 80.73(b)(2)(B).

19 L.A. City Code § 80.73(b)(2)(C) (requiring that truck operators only serve customers from the side of the truck abutting the sidewalk).

20 L.A. City Code § 80.73(b)(2)(E).

21 L.A. City Code § 80.69(d).

22 See, e.g., El Paso City Code § 12.46.020(C) (requiring that trucks not operate within 20 feet of an intersection).

## Los Angeles from the Trenches

by Matt Geller, CEO, and Jeffrey Dermer and Kevin Behrendt, Counsel, Southern California Mobile Food Vendors' Association

Southern California is the most mature mobile-vending market in the United States. The traditional taco trucks, or “loncheros,” have been a familiar sight in California for generations. As a result of this unique history, Southern California and Los Angeles are more comfortable with mobile vending than perhaps other parts of the United States. Furthermore, this experience has left Los Angeles with the most well-developed and mature set of regulations in the country.

But none of this came easily. Over the years, public-interest advocates have fought tirelessly in the courts, in the state legislature, and in local government halls for a more reasonable regulatory environment for mobile vending. Other states and cities would do well to avoid these battles and instead simply “cut to the chase” by repealing any protectionist laws on their books and passing narrow regulations that deal with actual health and safety issues. By emulating the best parts of Los Angeles’ regulatory landscape as described in this report, officials throughout the country can make sure that trucks comply with the law and that consumers and residents are satisfied.

Below, we briefly describe how Los Angeles’ unique regulatory landscape has evolved and the economic and social benefits that it has helped produce.

### Mobile Vending in Los Angeles

Historically, mobile vending in Los Angeles was primarily a business for recent immigrants. Many of the taco trucks of the 1970s and 1980s were founded and run by Mexican immigrants. These trucks faced discriminatory enforcement of the laws and, in some cases, outright attempts by city officials to shut down mobile vending in many communities. Those pioneers fought back by pairing with civil-rights lawyers to push back on the most egregious of these laws, including one that prohibited food vending within 100 feet of a restaurant’s front door.<sup>23</sup> The current state of regulations is a testament to those advocates.

Another key to California’s vending landscape came in 1984, when the California Legislature passed a landmark provision telling cities that they may only regulate mobile vending “for the public safety.”<sup>24</sup> One year later, the Legislature went one step further by preventing cities from instituting outright bans on mobile vending for any reason.<sup>25</sup> This law has helped food trucks fight back against anti-competitive restrictions at the city and county levels.

*The Southern California Mobile Food Vendors Association was founded in January 2010 in response to the confusing regulatory framework that confronted gourmet food-truck operators. Since then, the Association has worked with over 30 cities to repeal anti-competitive vending laws, fought back attempts at the California state legislature to weaken state protections for food trucks and brought suit against municipalities that, at the behest of brick-and-mortar businesses, enacted ordinances meant to ensure that no mobile vending occurred on their streets.*

The late 2000s saw the rise of the modern gourmet food truck. In the past, food trucks had primarily served construction workers on job sites. This business model worked well during the boom times, but the real-estate collapse of 2007-08 meant that there were few construction sites to service. Faced with a massive excess capacity of catering vehicles, many entrepreneurs bought trucks and repurposed them. This was helped, in part, by the fact that Los Angeles is home to a family-business culture and a large

<sup>23</sup> *People v. Ala Carte Catering Co.*, 159 Cal. Rptr. 479 (Cal. App. Dep’t Super. Ct. 1979).

<sup>24</sup> Cal. Vehicle Code § 22455(b).

<sup>25</sup> More specifically, the 1985 amendment to section 22455 removed the final sentence of subsection (b), which previously read: “An ordinance or resolution adopted pursuant to this subdivision may prohibit vending from a vehicle upon a street.”

number of different ethnic groups, many of whom brought new food concepts to this emerging industry.

But the growth in this new industry ruffled some feathers, including corporate quick-serve restaurants and the commercial developers who rent to them. Unfortunately, but not surprisingly, these forces made a concerted effort to pass new protectionist laws in the city of Los Angeles and elsewhere. Although Los Angeles itself refrained from enacting any new anti-competitive restrictions, some other municipalities in the area passed restrictive vending laws and began to enforce anti-competitive laws that were already on the books.

It was against this backdrop that the food trucks in Southern California joined forces to create the Southern California Mobile Food Vendors Association. Only two years old, the Association has grown from 30 initial members to over 150 members. Through education, lobbying and litigation, the Association has sent a clear message to regulators that consumer choice and entrepreneurship should come first.

Thankfully, forward-looking officials in Los Angeles have heard this message, embraced it, and now see the benefits that come from giving food trucks the freedom to operate. This hands-off approach has spawned an entirely new food-truck industry, with many companies now building and customizing food trucks, supplying graphic wraps for new entrepreneurs and selling technology to help consumers both locate their favorite trucks and order from them. The number of trucks has grown, leading to hundreds of new jobs. And the increased competition has pushed everyone, both food trucks and brick-and-mortar restaurants, to cook and serve food that is better tasting and a better value.

Competition is what makes America great, and Los Angeles' regulatory model wisely embraces that competitive spirit and rejects the idea that the government should protect certain businesses at the expense of consumers. The city's approach to regulating food trucks has worked for Los Angeles, and it can work for your city as well.

## HOW CITIES SHOULD ADDRESS PUBLIC HEALTH AND SAFETY ISSUES

In the following pages, the Institute for Justice discusses how cities should address some major topics surrounding food trucks, including these health and safety issues:

- **Food Safety**
- **Food-Safety Enforcement**
- **Parking**
- **Refuse**
- **Liability Insurance**
- **Hours of Operation**
- **Employee Sanitation**
- **Commissary Requirements**
- **Licensing**

For each issue, the Institute will describe the applicable law in Los Angeles and explain its advantages and drawbacks. It will then examine how other cities address the issue and explain why those other approaches are better or worse than what L.A. does. Finally, the Institute will recommend what law cities should adopt and give reasons for that recommendation. Throughout, the report will provide citations to the pertinent laws.

## FOOD SAFETY

### HOW LOS ANGELES REGULATES FOOD SAFETY:

The city of Los Angeles does not regulate the design of food trucks, how they store and cook food or what procedures they must follow in cleaning their equipment and utensils. Instead, this function is performed by the Los Angeles County Health Department, which administers the rules set forth in the California Retail Food Code.<sup>26</sup> That code prescribes how all food businesses, restaurants and food trucks included, must be designed and run.

While the Food Code has general rules that are applicable to all food sellers,<sup>27</sup> it also contains food-truck specific rules. The code, for instance, specifies the requisite amount of aisle space within the cooking portion of the truck<sup>28</sup> and mandates that utensils be secured so they are not thrown about while the truck is moving.<sup>29</sup> The code also imposes different requirements on trucks based on what the vehicle will be used for. If food will be prepared and cooked on board a food truck, for instance, the code requires that the vehicle be equipped with both warewashing and handwashing sinks<sup>30</sup> and that any deep fryers be sealed using a positive air pressure lid.<sup>31</sup> Trucks that do not prepare and cook food need not meet these requirements.

### HOW OTHER CITIES REGULATE FOOD SAFETY:

As in Los Angeles, in most cities the regulations concerning food safety aboard food trucks come from state or county retail-food codes. In Phoenix, for instance, the Maricopa County Environmental Health Code governs how food trucks are regulated.<sup>32</sup> That code requires that trucks follow the general provisions that are

*An online compendium containing the full language of the laws cited in this report can be found at <http://www.ij.org/vending>.*

<sup>26</sup> Cal. Health and Safety Code §§ 113700 *et seq.*

<sup>27</sup> Cal. Health and Safety Code § 114294(a) (stating that “[a]ll mobile food facilities and mobile support units shall meet the applicable requirements in Chapters 1 to 8, inclusive, and Chapter 13, unless specifically exempted from any of these provisions”).

<sup>28</sup> Cal. Health and Safety Code § 114321.

<sup>29</sup> Cal. Health and Safety Code § 114323(b)(1).

<sup>30</sup> Cal. Health and Safety Code § 114311.

<sup>31</sup> Cal. Health and Safety Code § 114323(b)(2).

<sup>32</sup> Maricopa County Environmental Health Code, <http://www.maricopa.gov/EnvSvc/AboutUs/HealthCode.aspx>.

applicable to brick-and-mortar restaurants, but it also imposes some additional, food-truck specific regulations. Likewise, the regulations that govern food safety for food trucks in Indianapolis are governed by the retail food establishment sanitation requirements of the Indiana Administrative Code, which govern both mobile and fixed-location food providers.<sup>33</sup>

Often the design and construction requirements for a food truck turn on what the truck will be used for. New York City, for instance, has two different sets of regulations for food trucks based on whether the food truck will be selling food that requires any cooking or processing in the vehicle (excluding the boiling of hot dogs). The two categories are subject to different requirements, which are a mix of state and local sanitary and health codes.<sup>34</sup> Likewise, the food-truck application for Portland, Ore., details four classes of vehicles and the specific requirements that apply to each class.<sup>35</sup>

#### **INSTITUTE FOR JUSTICE RECOMMENDATION:**

The Institute for Justice notes that most municipalities follow the food-safety rules established in county or state food codes, which are typically based on industry best practices. To the extent the county or state food code does not deal with a specific issue, the Institute recommends that officials follow the requirements of Chapter 10 of the California Retail Food Code, which governs food trucks.<sup>36</sup>

Furthermore, cities drafting their own regulations should, as the California Retail Food Code does, customize those requirements based on what the truck will serve. Safety or cooking equipment that is necessary for a truck where food is prepared may well be unnecessary for a truck that

sells only prepackaged food or ice cream. Regardless of what law a city follows, though, it should lay out what precise steps operators must take. Having officials rely on informal customs and standards that are unknowable to those on the outside unnecessarily increases both uncertainty and costs to would-be entrepreneurs.

#### **BOTTOM LINE:**

*Cities without food-safety regulations for mobile vehicles should adopt Chapter 10 of the California Retail Food Code and tailor those regulations to the potential risk that the truck's food poses to public health and safety.*

## **FOOD-SAFETY ENFORCEMENT**

**HOW FOOD SAFETY IS ENFORCED IN LOS ANGELES:** Los Angeles County is the government body responsible for administering the state retail-food code and inspecting food trucks.<sup>37</sup> Its rules call on county officials to perform unannounced field inspections of trucks. In early 2011, the county started assigning letter grades to food trucks based on the results of their inspections, which mirrored what the county already did for brick-and-mortar restaurants.<sup>38</sup> Food trucks must display the grade they received on their vehicle.<sup>39</sup> Food truck owners have largely welcomed this change, which gives them the opportunity to show that they are just as clean and sanitary as their brick-and-mortar counterparts.<sup>40</sup>

**HOW OTHER CITIES ENFORCE FOOD SAFETY:** Cities are split as to who inspects mobile food vendors. Approximately half of America's largest 50 cities inspect trucks themselves, while state or county health departments conduct inspections for the other 25 cities. The frequency of inspections similarly varies: While San Antonio conducts "routine, unannounced inspections" of food trucks,<sup>41</sup> Albuquerque, N.M., inspects trucks at least twice a year based on the "past compliance record of a food establishment and the risk presented to consumers by the menu items provided by the specific food establishment."<sup>42</sup> Inspections in most cities are

<sup>33</sup> Indiana State Department of Health, Retail Food Establishment Sanitation Requirements, [http://www.in.gov/isdh/files/410\\_iac\\_7-24.pdf](http://www.in.gov/isdh/files/410_iac_7-24.pdf).

<sup>34</sup> See New York City Department of Health and Mental Hygiene Mobile Vending Permit Inspection Requirements, [http://www.nyc.gov/html/doh/downloads/pdf/permit/mfv\\_cart\\_truck\\_inspection.pdf](http://www.nyc.gov/html/doh/downloads/pdf/permit/mfv_cart_truck_inspection.pdf).

<sup>35</sup> See Mobile Food Unit Plan Review Packet, [http://web.multco.us/sites/default/files/health/documents/mfu\\_plan-review.pdf](http://web.multco.us/sites/default/files/health/documents/mfu_plan-review.pdf).

<sup>36</sup> Cal. Health and Safety Code §§ 114294 *et seq.*

<sup>37</sup> L.A. County Code §§ 8.04.405, 8.04.752.

<sup>38</sup> Rong-Gong Lin II, *A drive to grade food trucks in L.A. County*, L.A. TIMES, Sept. 14, 2010, <http://articles.latimes.com/2010/sep/14/local/la-me-food-trucks-20100914>.

<sup>39</sup> L.A. County Code § 8.04.752.

<sup>40</sup> See Lisa Jennings, *L.A. food trucks to post letter grade inspection results*, NATION'S RESTAURANT NEWS, Oct. 20, 2010, <http://nrrn.com/article/la-food-trucks-post-letter-grade-inspection-results>.

<sup>41</sup> San Antonio City Code § 13-62(k).

<sup>42</sup> Albuquerque City Code § 9-6-1-6.

unannounced,<sup>43</sup> and most are conducted by the same officials who inspect brick-and-mortar restaurants.<sup>44</sup>

**INSTITUTE FOR JUSTICE RECOMMENDATION:** Of the existing laws concerning food-safety enforcement, the Institute for Justice recommends that cities generally follow the approach of Los Angeles County.<sup>45</sup> In a forthcoming report, the Institute for Justice compares the inspection grades of restaurants and food trucks in Los Angeles and finds that the city’s food trucks are just as clean and sanitary on average as its restaurants. Furthermore, cities should consider following Albuquerque’s approach of taking a truck’s inspection history and the food it serves into account when deciding how frequently to inspect it. The Southern California Mobile Food Vendors Association, in a similar vein, has suggested that trucks that get two “A” grades in a row should receive a “Certification of Excellence” that reduces their inspection rate to only once per year. This approach makes sense, since inspectors generally should spend less time on trucks that pass inspection with flying colors and instead focus on food trucks or restaurants that have a history of problems. Finally, inspectors should hold food trucks and brick-and-mortar restaurants to the same food-safety standards.

commercial areas; instead, it merely states that food trucks cannot operate within 200 feet of certain parks<sup>46</sup> or near the Pacific Ocean.<sup>47</sup>

**Distance to Intersections:** Food trucks in Los Angeles must follow all traffic rules and any stopping, standing or parking prohibitions as provided by the State Vehicle Code.<sup>48</sup> They must also follow the traffic regulations in the Los Angeles Municipal Code that apply to all vehicles.<sup>49</sup> In addition to those state and municipal traffic laws, food trucks may not park within 100 feet of an intersection.<sup>50</sup> The 100-foot prohibition is far larger than what is needed to accommodate any congestion or visibility issues. For many smaller blocks, the restriction makes it difficult, if not impossible, for trucks to legally park and serve their fare. Indeed, it appears that Los Angeles recognizes the difficulty with this approach; according to the Southern California Mobile Food Vendors Association, the city of Los Angeles does not actively enforce its 100-foot restriction.

**Use of Metered Parking Spaces:** The city of Los Angeles permits food trucks to vend from metered public parking spots for the maximum amount of time listed on the meter.<sup>51</sup>

**Duration Restrictions (How Frequently Food Trucks Must Move):** The city of Los Angeles previously restricted how frequently food trucks had to move. Under its old law, food trucks could only stay in one spot for 30 minutes in a residential area, or 60 minutes in a commercial one.<sup>52</sup> They then had to move one-half mile away and not return for 30 or 60 minutes, respectively.<sup>53</sup> A Los Angeles Superior Court judge invalidated this duration restriction in 2009 and it is no longer enforced.<sup>54</sup>

**BOTTOM LINE:**

*Cities should follow Los Angeles’ approach by inspecting food trucks both when first permitting them and periodically thereafter. Trucks serving non-hazardous food or that have passed multiple inspections should, as in Albuquerque, N.M., be subject to less frequent inspections, which will give inspectors more time to inspect trucks and restaurants with a history of issues.*

## PARKING

### HOW LOS ANGELES DEALS WITH PARKING:

**Proximity Restrictions and Restricted Zones:** The city of Los Angeles does not prohibit food trucks from operating within a certain distance of brick-and-mortar restaurants. Likewise, the city does not restrict food trucks from operating in popular

43 See, e.g., City of Kansas City, Food protection frequently asked questions, <http://www4.kcmo.org/health.nsf/web/foodfaq#8>.

44 See, e.g., Las Vegas City Code § 6.02.020.

45 L.A. County Code §§ 8.04.405, 8.04.752.

46 L.A. City Code § 80.73(b)(2)(A)(4)(i).

47 L.A. City Code § 42.15(c).

48 L.A. City Code § 80.73(b)(2)(B).

49 *Id.*

50 L.A. City Code § 80.73(b)(2)(A)(3).

51 See L.A. City Code § 80.73(b)(2)(B).

52 L.A. City Code § 80.73(b)(2)(F).

53 *Id.*

54 Press Release, UCLA School of Law Clinical Program Wins Case Challenging Validity of Los Angeles City Ordinance Implemented Against Taco Trucks, (June 10, 2009), <http://www.law.ucla.edu/news-media/Pages/News.aspx?NewsID=737>.

**Potential Sidewalk Congestion:** The city of Los Angeles does not mandate that food trucks park and vend only at sidewalks of a certain minimum width; instead, it states that food trucks should not operate in a way that blocks the public right of way.<sup>55</sup>

## HOW OTHER CITIES DEAL WITH PARKING:

### Proximity Restrictions and Restricted Zones:

In *Streets of Dreams*, the Institute looked at how many of the largest cities in the United States imposed restrictions on where food trucks could operate. In all, 20 of the 50 largest U.S. cities told food trucks to stay a certain distance away from their brick-and-mortar competitors, while 34 cordoned off parts of the city, often prime commercial areas, from vending.<sup>56</sup> Proximity restrictions exist solely to prevent one business from being able to compete with another, which simply is not a legitimate government interest. Indeed, virtually every court to consider one of these laws has held them to be unconstitutional and struck them down.<sup>57</sup>

Although not as transparently protectionist as laws establishing proximity restrictions, laws that create restricted zones are often protectionist in effect due to their breadth. Typically, congestion issues are fairly localized at particular intersections or on particular streets. But rather than take a narrow approach, restricted zones prohibit all vending in large swaths of a city. Regulations that exceed their required scope look like less of an honest attempt to solve a real problem and more of an attempt to keep food trucks from competing.

**Distance to Intersections:** The 100-foot restriction that Los Angeles requires food trucks to follow is much larger than similar laws in other major cities. Many cities do

not specify any minimum distance a truck must be from an intersection, instead merely requiring that a truck not vend “in a congested area where the operation will impede pedestrian or vehicle traffic.”<sup>58</sup> And of those cities that do provide for a minimum, the required distance ranges from 20 to 50 feet.<sup>59</sup>

**Use of Metered Parking Spaces:** Most cities in the United States allow food trucks to pay for and operate from metered parking spaces for the amount of time listed on the meter. One notable exception to this is Pittsburgh, which says that food trucks “shall not park any vehicles for the purpose of vending, or place any materials in on-street metered parking spaces.”<sup>60</sup> And in New York City, a controversy has erupted over whether food trucks may vend from metered spots. The city’s transportation regulations state that “[n]o peddler, vendor, hawker or huckster shall park a vehicle at a metered parking space for purposes of displaying, selling, storing or offering merchandise for sale from the vehicle.”<sup>61</sup> A food truck sued, arguing that its food was not “merchandise” for purposes of the law. A New York trial court ruled for the city in May 2011,<sup>62</sup> and that ruling was upheld the following year.<sup>63</sup>

**Duration Restrictions:** As discussed in *Streets of Dreams*, 19 of the 50 largest U.S. cities mandate how frequently a vendor must move, regardless of whether he or she is vending from a metered space or what the time limit for the space, if any, might be.<sup>64</sup> Those laws require vendors to move once every 15 minutes to two hours;<sup>65</sup> in some instances, vendors who have moved are not allowed to return to their original location for a specified amount of time.<sup>66</sup> These laws are counterproductive, and should be scrapped. Forcing vendors to move regularly makes it difficult, if not impossible, to run a profitable business. Short time limits also pose a safety hazard, since it pressures cooking trucks into moving before their equipment has completely cooled. And by requiring trucks to constantly be on the road, laws like these make congestion worse, not better.

**Potential Sidewalk Congestion:** Most cities deal with potential sidewalk congestion issues as Los Angeles does, by simply requiring that food trucks not operate in a manner that blocks or inhibits use of the sidewalk by pedestrians. Fresno, Calif., for instance, states that “[n]o mobile vendor shall block or

<sup>55</sup> See L.A. City Code § 56.08(c).

<sup>56</sup> STREETS OF DREAMS 16, 20 (July 2011).

<sup>57</sup> See, e.g., *People v. Ala Carte Catering*, 159 Cal.Rptr. 479 (1979); *Duchain v. Lindsay*, 42 A.D.2d 100, 345 N.Y.S.2d 53 (1973), *aff’d*, *Duchain v. Lindsay*, 34 N.Y.2d 636 (1974); *Thunderbird Catering Co. v. City of Chicago*, Case No. 83-52921 (Oct. 15, 1986).

<sup>58</sup> Las Vegas City Code § 6.55.070(A)(2).

<sup>59</sup> See, e.g., El Paso City Code § 12.46.020(C) (20 feet); Minneapolis City Code § 188.480(2) (30 feet); San Antonio City Code § 13-63(a)(5) (50 feet).

<sup>60</sup> Pittsburgh City Code § 719.05A(d).

<sup>61</sup> New York City Department of Transportation Regulations § 4-08(h)(8).

<sup>62</sup> Glenn Collins, *Food Trucks Shooed From Midtown*, N.Y. TIMES, June 28, 2011, [http://www.nytimes.com/2011/06/29/dining/food-trucks-shooed-from-midtown.html?\\_r=2](http://www.nytimes.com/2011/06/29/dining/food-trucks-shooed-from-midtown.html?_r=2).

<sup>63</sup> *Monroy v. City of New York*, May 8, 2012, <http://caselaw.findlaw.com/ny-supreme-court-appellate-division/1600535.html>.

<sup>64</sup> STREETS OF DREAMS 23 (July 2011).

<sup>65</sup> See Columbus City Code § 2151.16 (15 minutes); Las Vegas City Code § 6.55.070(A)(2) (30 minutes); Chicago City Code § 7-38-115(b) (two hours).

<sup>66</sup> See, e.g., Sacramento City Code § 5.68.170 (stating that vending vehicle may not return to original location until the next day).

obstruct the free movement of pedestrians or vehicles on any sidewalk.”<sup>67</sup> Las Vegas, Nev., similarly says that no mobile food vendor shall “[v]end in a congested area where the operation will impede pedestrian or vehicle traffic.”<sup>68</sup> And Philadelphia states that food trucks should not “increase traffic congestion or delay, or constitute a hazard to traffic.”<sup>69</sup>

### **INSTITUTE FOR JUSTICE RECOMMENDATION:**

**Proximity Restrictions and Restricted Zones:** The Institute for Justice recommends that cities follow the example of Los Angeles by not prohibiting food trucks from operating within a certain distance of brick-and-mortar restaurants. The first lawsuit the Institute for Justice brought as part of its National Street Vending Initiative was against El Paso, Texas, which enacted a law that kept food trucks from operating within 1,000 feet of any fixed business that served food.<sup>70</sup> In response to the lawsuit, El Paso quickly backed down and dropped its anti-competitive restriction.

The Institute for Justice also recommends that cities follow the example of Los Angeles by not establishing broad zones where food trucks may not operate. As discussed at the beginning of this report, cities should strive to enact narrow laws that address the particular problem at hand but go no further. New York City, for instance, does not have any blanket prohibitions on where food trucks may go; instead, it proscribes vending only at certain specific times and locations based on demonstrable congestion concerns. The Institute for Justice recommends that other cities do the same.

**Distance to Intersections:** Of the laws dealing with traffic, parking, and congestion issues, the Institute for Justice recommends that cities follow the example of El Paso, Texas, which states that food trucks “shall be allowed to stop, stand or park on any public street or right-of-way, provided this area is not within twenty feet of an intersection, such vehicle does not obstruct a pedestrian crosswalk and the area is not prohibited to the stopping, standing or parking of such vehicles.”<sup>71</sup> This rule is clear, definite, and easy for food trucks to follow. The Institute for Justice does not recommend that cities follow Los Angeles’ approach of prohibiting food trucks from parking within 100 feet of an intersection. Cities should not regulate more heavily than necessary, and Los Angeles’ 100-foot restriction is excessive compared to what other cities prescribe.

**Use of Metered Parking Spaces:** The Institute for Justice recommends that cities follow the example of Los Angeles and virtually every other major city by allowing food trucks to operate from metered locations provided that they pay the requisite fees and follow any time limitations associated with the location. Food trucks are miniature commerce centers, and letting them pay for and use parking spaces both enriches the city and helps consumers find the trucks that they want to patronize. Furthermore, there is no reason to single out food trucks from all other commercial vehicles and impose special burdens on them that the rest do not share.

### *Innovation: Food Truck Parking Passes*

*Some food trucks will want to use a metered parking space for longer than typically permitted. Food trucks that sell fried items, for instance, frequently struggle with shorter parking periods, as they often must take 30 minutes or more to heat up their oil while setting up or to cool it down while preparing to move. One way that cities can accommodate this desire is to sell special permits to food trucks that let them park at metered locations for an extended period of time. These permits may be issued on a periodic basis, such as monthly or quarterly, or the city can instead sell one-time passes. To use such a pass, truck operators would scratch off the current date and place it in their windshield; once on display, the pass would let the truck legally park at one or multiple spots over the course of the day. The price of these permits or passes could be set at a premium above standard meter rates. This would give more entrepreneurial food trucks more options while generating more revenue for the city.*

<sup>67</sup> Fresno City Code § 9-1107(h).

<sup>68</sup> Las Vegas City Code § 6.55.070(A)(2).

<sup>69</sup> Philadelphia City Code § 9-203(7)(d).

<sup>70</sup> El Paso Vending, The Institute for Justice, <http://www.ij.org/el-paso-vending>.

<sup>71</sup> El Paso City Code § 12.46.020(C).

**Duration Restrictions:** After reviewing laws that govern how long food trucks may stay at one location, the Institute for Justice recommends that cities follow the examples of Philadelphia and New York City. Neither city forces food trucks to move after an arbitrary amount of time; instead, they require only that food trucks obey the parking rules that apply to all vehicles. Although Los Angeles does not impose any duration restrictions, that is only because a court held them to be invalid; accordingly, the Institute does not recommend that cities adopt the language in Los Angeles' code.

Food trucks responding to an Institute survey pointed out that, for cooking trucks, it can often take up to a half hour to get set up and ready to cook and another half hour to close down the kitchen and get back on the road. As a result, owners universally expressed frustration with duration restrictions, which can make it practically impossible to vend from a modern gourmet food truck. Trucks also complained about the harm to their business's reputation when they have to turn away customers who have patiently waited in line. As one Washington, D.C., entrepreneur put it, "Expecting busy trucks to move with 30 people on line is a burden." For these reasons, the Institute for Justice recommends that food trucks be allowed to stay at one location for at least as long as any other vehicle.

**Potential Sidewalk Congestion:** The Institute for Justice recommends that cities follow the example of Los Angeles, which specifies only that food trucks not operate in a manner "which will interfere with or obstruct the free passage of pedestrians or vehicles along any such street, sidewalk or parkway."<sup>72</sup> A set rule that requires a minimum sidewalk width in some instances can be regulatory overkill, such as in areas with little to no

pedestrian traffic, and might be insufficient in particularly crowded areas. Los Angeles' approach is superior because it gives trucks more flexibility while continuing to protect the public right of way. As noted below, the fear that trucks lead to congested sidewalks has little to no evidentiary support.

**BOTTOM LINE:**

*Proximity Restrictions and Restricted Zones: Cities should follow the example of Los Angeles by not prohibiting food trucks from operating within a certain distance of brick-and-mortar restaurants or establishing large no-vending areas that are neither narrow nor based on real congestion concerns.*

*Distance to Intersections: Cities should adopt El Paso Code Section 12.46.020(c), which states that food trucks "shall be allowed to stop, stand or park on any public street or right-of-way, provided this area is not within twenty feet of an intersection, such vehicle does not obstruct a pedestrian crosswalk and the area is not prohibited to the stopping, standing or parking of such vehicles."*

*Use of Metered Parking Spaces: Cities should follow the example of Los Angeles and almost all other cities by letting food trucks operate from metered locations.*

*Duration Restrictions: Cities should follow the examples of Philadelphia and New York City, neither of which artificially restricts how long a food truck may stay at one spot.*

*Potential Sidewalk Congestion: Rather than prescribing the minimum width that a sidewalk must be for mobile vending, cities should follow Los Angeles' approach and simply require that food trucks not operate in a manner "which will interfere with or obstruct the free passage of pedestrians or vehicles along any such street, sidewalk or parkway."*

<sup>72</sup> See L.A. City Code § 56.08(c).

## *IJ Original Research on Food Trucks and Sidewalk Congestion*

Some local businesses that do not want to compete against food trucks argue that letting trucks operate on the streets will increase sidewalk congestion. The argument is that this congestion makes it harder for pedestrians to navigate the right of way and, in some instances, could even lead to safety hazards. This concern is offered as a justification for laws that prohibit trucks from operating in certain areas of the city or from operating on public property at all.

Of course, legislators should only act on these concerns if they are in fact true. But while claims of food trucks creating sidewalk congestion abound, there was no actual evidence showing that to be the case. In fact, the effects of food trucks on congestion had never seriously been examined. So, to find out if trucks really do pose congestion concerns, the Institute for Justice undertook an original empirical research study.

On three days in December 2010, January 2011, and February 2011, a team of researchers from the Institute for Justice observed pedestrian traffic in two areas of Washington, D.C. known as Federal Center and Dupont Circle. Federal Center is an area in Southwest D.C. that is close to several government buildings and a handful of deli-style restaurants. Dupont Circle,

which is located in Northwest D.C, is one of the city's busiest areas, with many dining options, office buildings, and retail shops. Both Federal Center and Dupont Circle are near subway stations.

IJ researchers measured the amount of foot traffic on both sides of the street. They also calculated how long it took pedestrians to travel from one end of the block to the other. They counted pedestrians on both sides on days when food trucks were present and on days when they were not.

The Institute's research showed that the presence of a food truck did not significantly increase foot traffic. In the Federal Center area, the highest amount of foot traffic occurred on a day when no food trucks were present, indicating that other factors impact foot traffic. The data from Dupont Circle reiterated this finding. The presence of a food truck was associated with a minor increase of pedestrians, just 28, over a two-hour time period, which amounts to an increase of less than one percent of total foot traffic.

### *Foot Traffic With and Without Presence of Food Trucks*

	<b>Dec. 15, 2010 (With Truck)</b>	<b>Jan. 13, 2011 (Control – No Truck)</b>	<b>Feb. 10, 2011 (No Truck)</b>
<b>Federal Center</b>	772	939	673
Truck Side	336	296	263
Non-Truck Side	436	643	410
	<b>Feb. 15, 2011 (With Truck)</b>	<b>Feb. 23, 2011 (Control – No Truck)</b>	
<b>Dupont Circle</b>	2921	2893	N/A
Truck Side	1043	951	N/A
Non-Truck Side	1878	1942	N/A

Nor did the presence of a food truck make it more difficult for pedestrians to traverse the sidewalk. Researchers observing Federal Center discovered that it took 42 seconds to travel a sidewalk block when a food truck was present, compared to 41 and 43 seconds when no truck was there. In Dupont Circle, it took pedestrians 74 seconds to cross a block where a food truck was parked, one second less than when no truck was present.

*Average Time for Pedestrians to Travel the Block, in Seconds*

	December 15, 2010 (With Truck)	January 13, 2011 (Control – No Truck)	February 10, 2011 (Control – No Truck)
<b>Takorean (Federal Center)<sup>73</sup></b>			
Truck Side	42	41	43
Non-Truck Side	47	47	46
<b>CapMac (Dupont Circle)</b>	February 15, 2011 (With Truck)	February 23, 2011 (Control – No Truck)	
Truck Side	74	75	N/A
Non-Truck Side	75	76	N/A

Lastly, researchers noted that food trucks and customers often work out ways to further minimize any disruptions. At one popular truck, where upwards of 30 people were waiting, researchers saw customers spontaneously forming a single-file line along the edge of the sidewalk, which ensured that there was ample room for other pedestrians to pass by. This example shows that, even if there are discrete situations where sidewalk congestion might be an issue, there are simple and effective solutions that do not require limiting the ability of vendors to earn a living or preventing customers from having access to the delicious food they want to buy.

**REFUSE**

**HOW LOS ANGELES REGULATES REFUSE:**

Los Angeles requires that food trucks “shall pick up, remove and dispose of all trash or refuse which consists of materials originally dispensed from the catering truck, including any packages or containers, or parts of either, used with or for dispensing the victuals.”<sup>74</sup> So that customers can assist in this effort, the city also mandates that food trucks provide “a litter receptacle which is clearly marked with a sign requesting its use by patrons.”<sup>75</sup>

**HOW OTHER CITIES REGULATE REFUSE:** Most cities surveyed by the Institute for Justice require that food trucks clean up trash. In some cities like Seattle, for example, trucks must “maintain the vending site, merchandise display, and adjoining and abutting public place free of all refuse of any kind generated.”<sup>76</sup> Other cities instead require only that vendors take care of trash that they themselves create. Columbus, Ohio, for instance, makes vendors responsible for keeping the area within twenty-five (25) feet of their operation free and clear of any litter caused by such operation.<sup>77</sup>

Like Los Angeles, some jurisdictions require that trucks put out trash receptacles. In Boston, for instance, food trucks must provide “a waste container for public use that the operator shall empty at his own expense.”<sup>78</sup> And Buffalo, N.Y., which recently liberalized its vending rules, likewise requires that food trucks be “equipped with trash receptacles of a sufficient capacity that shall be changed as necessary.”<sup>79</sup>

<sup>73</sup> Due to construction, the sidewalk on the western side of the street was significantly shorter than the eastern side (201 feet compared to 303 feet). To account for this, times for the eastern side of the street have been multiplied by .6633. Adjusted times are shown.

<sup>74</sup> L.A. City Code § 80.73(b)(2)(E).

<sup>75</sup> L.A. City Code § 80.73(b)(2)(D).

<sup>76</sup> See Seattle City Code § 15.17.152(A).

<sup>77</sup> See Columbus City Code § 523.13(c)(11).

<sup>78</sup> Boston City Code § 17-10.8(a)(5).

<sup>79</sup> Buffalo City Code § 316-51(I).

**INSTITUTE FOR JUSTICE RECOMMENDATION:** Of the laws that deal with refuse issues, the Institute for Justice recommends that cities follow Los Angeles' approach, albeit with additional language that precisely lays out how far from the truck operators must search for any trash they created.<sup>80</sup> The following is an amalgam of language from Los Angeles and Columbus that cities may use in crafting their laws:

After dispensing victuals, at any location, a catering truck operator, prior to leaving the location, shall pick up, remove and dispose of all trash or refuse **within twenty-five feet of the catering truck** which consists of materials originally dispensed from the catering truck, including any packages or containers, or parts of either, used with or for dispensing the victuals.

It is reasonable for cities to make food trucks remove any trash they generate from the immediate area surrounding the truck, as is the requirement that trucks give customers some way to discard their refuse. Cities should be careful, however, not to go overboard with these regulations by mandating exactly what type of receptacles trucks must use or how large they have to be.<sup>81</sup>

**BOTTOM LINE:**

*Cities should follow the example of Los Angeles and require trucks to be responsible for the trash they create, but they should also give trucks a specific distance they are responsible for, as Columbus, Ohio, does.*

## LIABILITY INSURANCE

### INSURANCE REQUIREMENTS FOR FOOD TRUCKS IN LOS ANGELES:

Like all motor vehicles, food trucks in California must carry liability insurance in order to operate on the public right of way.<sup>82</sup> Food trucks operating in Los Angeles need not purchase any additional liability insurance beyond that amount.

### INSURANCE REQUIREMENTS FOR FOOD TRUCKS

**IN OTHER CITIES:** Most of the city laws surveyed by the Institute for Justice, like Los Angeles, do not impose separate liability insurance requirements on food trucks. Instead, those vehicles may get to work so long as they carry the state-mandated level of insurance to operate on the road. Some cities, however, also require that trucks carry a general liability insurance policy that lists the city as an additional insured. In Boston, for instance, a food-truck applicant must provide a "certificate of insurance providing general liability insurance listing the City as additionally insured."<sup>83</sup> And in Las Vegas, food trucks must maintain auto and general liability insurance of at least \$300,000.<sup>84</sup>

### INSTITUTE FOR JUSTICE RECOMMENDATION:

After reviewing liability insurance requirements for food trucks, the Institute for Justice recommends that cities follow the general approach of Los Angeles by not requiring that food trucks maintain insurance policies naming the city as an additional insured. Cities are no more liable for injuries caused by food trucks than they are for injuries caused by brick-and-mortar businesses. Additionally, having to name the city as an additional insured causes additional headaches for food trucks, as the practice is out of the ordinary and something many insurance companies are reluctant to do. Unless a city requires that all food service companies doing business within its boundaries carry a specific level of liability insurance, it should follow Los Angeles' approach and not foist additional requirements on food trucks that their brick-and-mortar counterparts do not share.

<sup>80</sup> L.A. City Code § 80.73(b)(2)(D)-(E).

<sup>81</sup> An earlier revision of Buffalo's food-truck law, passed in January 2012, required that trucks carry and put out "two, 65-gallon garbage cans." After complaints from food-truck operators, who saw the law as unnecessary and unduly burdensome, the sponsor of the bill changed the language to what is reflected above. Aaron Besecker, *Revised food truck rules unveiled*, THE BUFFALO NEWS, at D5 (Jan. 12, 2012).

<sup>82</sup> See Cal. Vehicle Code § 1656.2 (detailing minimum liability requirements that vehicle operators must carry).

<sup>83</sup> Boston City Code § 17-10.5(b)(7).

<sup>84</sup> Las Vegas City Code § 6.55.080.

**BOTTOM LINE:**

*Unless a city requires all businesses in its jurisdiction to carry a specific amount of liability insurance, it should follow the approach of Los Angeles and not impose this requirement on food trucks. Cities should not require trucks to carry liability insurance that names the city as an additional insured.*

restricting vending during certain hours only at specified locations.<sup>86</sup>

Other cities' restrictions, however, are quite onerous. In Phoenix, food trucks may not operate in the public way after 7 p.m. or whenever it gets dark, whichever is later.<sup>87</sup> And in Sacramento, Calif., the city manager requires vendors to limit their hours of operation to between 8 a.m. and 6 p.m.<sup>88</sup> These restrictions do nothing to further public health and safety, but make it that much harder for trucks to succeed.

## HOURS OF OPERATION

**HOURS OF OPERATION IN LOS ANGELES:** The city of Los Angeles does not place any artificial limitations on when vendors may operate, which allows food trucks to specialize. Some trucks like PerKup Coffee and Tea Co. may choose to serve breakfast fare, while other trucks may decide to cater to late-night customers, just as others serve bar patrons on Friday and Saturday nights. This kind of flexibility means that consumers will be able to get food on their way into work or on their way home after a late night. In the end, letting trucks choose when to operate leads to more successful trucks and more satisfied customers.

**HOURS OF OPERATION IN OTHER CITIES:** Of the 50 cities surveyed by the Institute for Justice for this report, approximately half prohibited food trucks from operating during at least part of the day. Some of these restrictions are quite minimal: In Austin, Texas, for instance, mobile food vendors are only required to cease operations between the hours of 3 a.m. and 6 a.m.<sup>85</sup> And New York City has no blanket restriction on hours of operation, instead

**INSTITUTE FOR JUSTICE RECOMMENDATION:** The Institute for Justice recommends that cities follow Los Angeles' approach and not restrict when food trucks may operate. Trucks should be free to vend at any time, or at the very least to be subject to the same rules as brick-and-mortar restaurants. To the extent that vending from a specific location at certain times poses actual public health and safety concerns, cities should address the specific problem and go no further. One example of such a narrow approach is Santa Monica, Calif. There, officials were concerned about the large crowds of people coming out of late-night bars on a stretch of Main Street. The worry was that the size of the trucks might create visibility problems for passing automobiles and lead to accidents involving inebriated bar patrons who venture out into the street. Rather than banning all food trucks in Santa Monica from operating at night, the city took a more focused approach by merely saying that on Friday and Saturday nights, trucks could not sell from 1 a.m. to 3 a.m. on the half-mile stretch of Main Street where the bars are located.<sup>89</sup> Food trucks were able to continue operating on nearby side streets where the city's traffic safety concerns were less.

**BOTTOM LINE:**

*Cities should follow Los Angeles' example and not place restrictions on when food trucks may operate. If a demonstrable health and safety issue exists at a specific location, cities should take the narrowest approach that resolves the issue.*

<sup>85</sup> See Austin City Code § 25-2-812(C)(4).

<sup>86</sup> See New York City Department of Health and Mental Hygiene Letter to Mobile Food Vendors 05/06/2011, available at <http://www.nyc.gov/html/doh/downloads/pdf/permit/mfv-restricted-streets.pdf>.

<sup>87</sup> Phoenix City Code § 31-24.1(C).

<sup>88</sup> Sacramento City Code § 5.88.110.

<sup>89</sup> Jason Islas, *Santa Monica Bans Late-Night Food Trucks on Main Street*, THE LOOKOUT NEWS (Nov. 10, 2011), [http://www.surfsantamonica.com/ssm\\_site/the\\_lookout/news/News-2011/November-2011/11\\_10\\_11\\_Santa\\_Monica\\_Bans\\_Late\\_Night\\_Food\\_Trucks\\_on\\_Main\\_Street.html](http://www.surfsantamonica.com/ssm_site/the_lookout/news/News-2011/November-2011/11_10_11_Santa_Monica_Bans_Late_Night_Food_Trucks_on_Main_Street.html).

## EMPLOYEE SANITATION

### SANITATION LAWS IN LOS ANGELES:

**Handwashing:** One of the simplest ways to prevent disease and contamination is for food handlers to wash their hands. In Los Angeles, food trucks that prepare food on board must be equipped with a handwashing sink for employees' use. This sink must be connected to at least a three-gallon water tank, be capable of dispensing water in excess of 100 degrees Fahrenheit, and must function independently of the truck's engine.<sup>90</sup>

**Bathroom Access:** Los Angeles requires food-truck operators that stay at a single location for more than an hour to have access to a building with toilet and handwashing facilities that is within 200 feet of where the truck is located.<sup>91</sup> A recent change to the law extends that distance to up to 300 feet for food trucks that pre-arrange and enter into "a fully-executed agreement between the operator and the owner of the restroom facility." Alternatively, trucks may close for 15 minutes every hour to "reset" the one hour clock. During that period, the food truck's windows must be shut, its employees must leave, and the operator must leave a note saying when the truck closed and when it will reopen.

### SANITATION LAWS IN OTHER CITIES:

**Handwashing:** Los Angeles' requirement that all trucks have handwashing sinks is by no means out of the ordinary. Almost all cities that regulate food trucks mandate handwashing sinks, with the specific requirements for those sinks differing based on the jurisdiction. For Mesa, Ariz., the handwashing sink must be at least 9" long, 9" wide, and 5" deep.<sup>92</sup> And Arlington, Texas, specifies that all food trucks must contain a handwashing station that is equipped with both soap and sanitary towels.<sup>93</sup>

**Bathroom Access:** Los Angeles is in the minority when it comes to its bathroom requirement. Most cities do not regulate bathroom access, instead trusting food truck entrepreneurs to manage their own bathroom needs. And those cities that do mandate bathroom access are less intrusive. In Austin, Texas, a food truck must enter into an agreement only if it will be in one location for more than two hours.<sup>94</sup> And in Boston, trucks need only show that they have access to flushable toilets and handwashing facilities within 500 feet of the truck if they're in one spot for more than an hour.<sup>95</sup>

### INSTITUTE FOR JUSTICE RECOMMENDATION:

**Handwashing:** The Institute for Justice recommends that cities follow the example of the California Retail Food Code, which requires trucks to have handwashing stations if they prepare food, but does not require them on trucks selling only prepackaged foods like frozen desserts.<sup>96</sup> Typically, the issue of handwashing sinks is governed by state health codes. To the extent that a state health code does not address the issue, the Institute recommends that a city require that "[m]obile food facilities from which nonprepackaged food is sold shall provide handwashing facilities."<sup>97</sup>

**Bathroom Access:** The Institute for Justice recommends that cities follow the examples of Las Vegas, Charlotte, and Portland, Ore., none of which requires trucks to enter into agreements for bathroom usage. Food trucks, as a matter of common sense, already provide bathroom access for their employees; they need not be ordered to do so by the government. Furthermore, laws requiring written bathroom agreements discourage trucks from exploring new markets and sharing their innovative products with parts of the city that they do not normally frequent.

#### BOTTOM LINE:

**Handwashing:** *Cities should follow California Retail Food Code Section 114311, which says that "[m]obile food facilities . . . from which nonprepackaged food is sold shall provide handwashing facilities," while exempting food trucks that sell only prepackaged foods like frozen desserts.*

**Bathroom Access:** *Cities should emulate Las Vegas, Charlotte, N.C., and Portland, Ore., by not requiring that food trucks enter into bathroom-access agreements with brick-and-mortar businesses.*

<sup>90</sup> Cal. Health and Safety Code § 114325.

<sup>91</sup> Cal. Health and Safety Code § 114315.

<sup>92</sup> Maricopa County Environmental Services Department, Mobile Food Units 6, <http://www.maricopa.gov/EnvSvc/EnvHealth/pdf/Mobile%20Food%20Unit%20English.pdf>.

<sup>93</sup> City of Arlington, Texas, Requirements for Mobile Food Service Trucks, [http://www.arlingtontx.gov/health/food\\_ordinances\\_mobile.html](http://www.arlingtontx.gov/health/food_ordinances_mobile.html).

<sup>94</sup> See Austin City Code § 10-3-91(A)(8).

<sup>95</sup> See Boston City Code § 17-10.5(b)(6).

<sup>96</sup> Cal. Health and Safety Code § 114311 ("Mobile food facilities not under a valid permit as of January 1, 1997, from which nonprepackaged food is sold shall provide handwashing facilities.")

<sup>97</sup> See *id.*

## COMMISSARY REQUIREMENTS

### COMMISSARY REQUIREMENTS IN LOS ANGELES:

Most mobile-food vending operations in Los Angeles are based out of a commissary, which is a facility at which they can park and clean their truck, store their inventory and do the paperwork that is associated with running any business. The California Retail Food Code and Los Angeles County require that most food trucks be stored and serviced at an approved commissary.<sup>98</sup> The only exceptions to this requirement are for trucks that operate from a fixed position at community events, or trucks that engage only in limited food preparation (in which case they may instead be serviced by a mobile support unit).<sup>99</sup> With the exceptions noted above, food trucks must be cleaned every operating day and must report to the commissary at the end of each day's operations.<sup>100</sup>

Although Los Angeles food trucks may clean their vehicles and do their paperwork at a shared commissary, they may not actually do any food preparation there. The reason is a Los Angeles County Health Department rule that says that only the permit holder for a commercial kitchen may use it to prepare food. Matt Geller, CEO of the Southern California Mobile Food Vendors Association, views that position as counterproductive and “a threat to public health because it does not give mobile vendors the option to operate legally in a rented kitchen. This can lead to mobile vendors prepping from home or unlicensed kitchen facilities.” He recommends that Los Angeles County create regulations that allow for use of an approved commissary or shared kitchen space.

**COMMISSARY REQUIREMENTS IN OTHER CITIES:** Most other cities require that food trucks generally associate with a commissary, but some cities' models give trucks more flexibility than Los Angeles does. Under Portland, Oregon's law, for example, a truck need not associate with a commissary if it sells only prepackaged food, in which case it need only be affiliated with a warehouse.<sup>101</sup> Alternatively, trucks in Portland “may not be required to have a base of operation if the unit contains all the equipment and utensils necessary to assure” that the vehicle is clean and can safely store and prepare food.<sup>102</sup> The state of Florida has similarly proposed regulations that would exempt self-sufficient mobile food vehicles from having to associate with a commissary.<sup>103</sup>

Most other cities also let food trucks and other culinary entrepreneurs use shared kitchen spaces to prepare and cook food. One such city is San Francisco, where La Cocina, a nonprofit “kitchen incubator,” offers low-income entrepreneurs shared commercial kitchen space and workshops with such titles as “How to Start a Food Business in San Francisco.”<sup>104</sup> And in Austin, Texas, another city that lets food truck operators use shared commercial kitchen spaces, a company named Capital Kitchens gives Austin food truckers a choice: They can use the facility as just a commissary where they can clean their truck and store their food, or they can also register the facility as their base of operations, which allows them to prepare and cook food there as well.<sup>105</sup>

**INSTITUTE FOR JUSTICE RECOMMENDATION:** The Institute for Justice recommends that cities follow Portland's example by exempting food trucks from being “required to have a base of operation if the unit contains all the equipment and utensils necessary to assure” that the truck can satisfy health and safety concerns. Some food trucks are self-contained mobile kitchens that protect against vermin and can refrigerate and freeze food 24 hours a day. Likewise, a truck selling only prepackaged items, like cupcakes, poses no real threat to public safety. Because signing up and working through a commissary can often be arduous, requiring trucks like these to associate with a commissary is both costly and unnecessary. For trucks that are not self-sufficient, the Institute recommends that cities follow the example of Los

<sup>98</sup> Cal. Health and Safety Code § 114295.

<sup>99</sup> See Cal. Health and Safety Code § 114295(b),(e).

<sup>100</sup> Cal. Health and Safety Code §§ 114295(c), 114297(a).

<sup>101</sup> Or. Admin. R. 333-162-0040.

<sup>102</sup> *Id.*; see also Oregon Health Authority Mobile Food Unit Operation Guide, <http://public.health.oregon.gov/Healthy-Environments/FoodSafety/Documents/muguide.pdf>.

<sup>103</sup> Florida Administrative Code § 61c-4.0161.

<sup>104</sup> La Cocina, <http://www.lacocinasf.org/>.

<sup>105</sup> Capital Kitchens, Mobile food vendor, <http://capital-kitchens.com/mobile-food-vendor.html>.

Angeles County, where trucks can operate out of their own commissary or a shared commissary.

Cities should also let food trucks band together and open their own shared kitchen spaces. Los Angeles County's prohibition against shared kitchens is counterproductive and puts a high roadblock in the way of fledgling entrepreneurs. Instead, the Institute recommends that cities follow the examples of San Francisco and Austin, Texas, which both let food trucks prepare and cook food in shared commercial kitchen spaces.

**BOTTOM LINE:**

*Cities should follow Portland, Oregon's example by saying food trucks should not be "required to have a base of operation if the unit contains all the equipment and utensils necessary to assure" to satisfy health and safety concerns.*

*For trucks that are not self-sufficient, cities should follow the example of Los Angeles County, where trucks can operate out of their own commissary or a shared commissary. Lastly, cities should let food trucks join together and open their own shared kitchen spaces, as both San Francisco and Austin, Texas, do.*

permit and get out on the road. Although the Southern California Mobile Food Vendors Association<sup>112</sup> has helped fill some of the void, Los Angeles should clarify what these fledgling entrepreneurs need to get started.

**Cost:** The annual fee for a Los Angeles County health permit for a food truck ranges from \$602 to \$787, depending on what types of items the truck sells.<sup>113</sup> The city of Los Angeles does not charge for a business license.<sup>114</sup>

**Who the Permit Covers:** Los Angeles County requires only that the operator of a truck have a permit. The employees who help out on the truck need not apply and receive their own vending permit.

**Limits on the Number of Permits Issued:** Neither the city of Los Angeles nor Los Angeles County limit or in any other way restrict the number of food trucks that may apply for and receive a license or permit.

## PERMITTING AND LICENSING

### HOW LOS ANGELES PERMITS AND LICENSES FOOD TRUCKS:

**The Application Process:** Before a truck gets on the road, it needs to get both a health permit from the county of Los Angeles and a separate business license from the city of Los Angeles. The health permit requires operators to provide detailed plans for the layout of the vehicle.<sup>106</sup> It also requires operators to fill out written operational guidelines that lay out the truck's proposed menu, how it will be prepared, and how the truck will wash its equipment and utensils.<sup>107</sup> Lastly, at least one person on board the truck must be certified in food safety.<sup>108</sup>

Although Los Angeles' application process is relatively less complex than the process in other jurisdictions, it is still often hard for would-be food-truck operators to navigate it. This is because, although food trucks in Los Angeles are regulated at the city,<sup>109</sup> county,<sup>110</sup> and state<sup>111</sup> levels, none of those jurisdictions clearly explains how to get a vending

### HOW OTHER CITIES LICENSE AND PERMIT FOOD TRUCKS:

**Application Process:** Many cities' actual permitting procedures are more complex than Los Angeles'. In Milwaukee, for instance, opening a food truck means getting a peddler's license that requires the health department to inspect the vehicle. But a would-be operator must also apply for a separate food-dealer license and occupancy permit for the business.<sup>115</sup> And that, in turn, requires the operator to apply for and receive a Wisconsin state seller's permit.<sup>116</sup> Altogether, an applicant in Milwaukee must get permission from at least three separate government agencies, each requiring multiple steps, before getting on the road.

106 County of Los Angeles Department of Public Health, Plan Check Guidelines for Mobile Food Facilities and Mobile Support Unit, [http://www.publichealth.lacounty.gov/eh/docs/vip/PLAN\\_CHECK\\_GUIDELINES\\_1.pdf](http://www.publichealth.lacounty.gov/eh/docs/vip/PLAN_CHECK_GUIDELINES_1.pdf).

107 County of Los Angeles Department of Public Health, Written Operational Procedures, [http://www.publichealth.lacounty.gov/eh/docs/vip/CalCode\\_Wrtn\\_Opt\\_Proc\\_2.pdf](http://www.publichealth.lacounty.gov/eh/docs/vip/CalCode_Wrtn_Opt_Proc_2.pdf).

108 County of Los Angeles Department of Public Health, Mobile Food Facility Information Packet Operational Guidelines, [http://www.publichealth.lacounty.gov/eh/docs/vip/Rules\\_and\\_Regulations\\_4.pdf](http://www.publichealth.lacounty.gov/eh/docs/vip/Rules_and_Regulations_4.pdf).

109 See generally L.A. City Code § 80.73(b).

110 See generally L.A. County Code Chapter 8.04.

111 Cal. Health and Safety Code § 114294 et seq.

112 <http://socalmfva.com/>.

113 L.A. County Code § 8.04.720.

114 Southern California Mobile Food Vendors Association, FAQ, <http://socalmfva.com/faq/>.

115 City of Milwaukee, Food Peddler License Information, <http://city.milwaukee.gov/ImageLibrary/Groups/ccLicenses/FoodPeddlerApplication.pdf>.

116 *Id.*

Boston's law is similarly complicated. The city has a single application form for mobile vendors; once an applicant submits the form, the Public Works commissioner submits it to various city departments for their review and approval.<sup>117</sup> But before an applicant submits their application, he or she must first obtain a health permit from the city Inspectional Services Department, a business certificate, a state-issued peddler's license and a GPS contract.<sup>118</sup> Altogether, a would-be vendor in Boston must go to three different city departments, the commonwealth of Massachusetts and a private GPS company before receiving her license. Actually being able to sell from the truck on either public or private property requires entrepreneurs to take several additional steps.<sup>119</sup>

Although Milwaukee's and Boston's permitting procedures are much more complicated than Los Angeles', both cities provide helpful guidance to applicants. In modernizing its food-truck rules, Milwaukee created a web document that helps would-be food-truck entrepreneurs understand what they need to do to get licensed.<sup>120</sup> Boston provides similar information on its website.<sup>121</sup>

**Cost:** The licensing fees that food trucks pay vary greatly by jurisdiction. In Kansas City, Mo., food trucks have to pay \$292 annually for a permit. In Boston, the permit fee varies based on a complex valuation of the public way used by the truck.<sup>122</sup> And in Cleveland, the annual fee for a food truck is \$263.44.<sup>123</sup>

**Who the Permit Covers:** Lastly, most cities require only that a food truck apply for and receive a single vending permit, with the truck's employees working under that permit. But Washington, D.C., issues

vending permits to individuals, not businesses, and requires that someone with a valid permit be on board the truck whenever it is in operation.<sup>124</sup> If the food truck's owner cannot be on board himself, then an employee on the truck must have his own separate vending permit. This requirement imposes a significant burden on food-truck owners, who face a huge burden if they want someone else to occasionally run the truck. And Washington, D.C.'s rule limits the opportunities for job creation that mobile food vending can offer.

**Limits on the Number of Permits Issued:** Most cities in the United States do not impose a limit on how many food trucks may apply for and receive a permit. One exception is New Orleans, which states that "the number of [food-truck] permits issued . . . shall at no time exceed 100 for the entire city."<sup>125</sup> New York City limits the number of permits available to food vendors, including food trucks, to 3,100.<sup>126</sup> Although it sounds like a large number, this number of permits is insufficient and has led to the growth of an illegal black market in vending permits. The price on the black market to use someone's food vending permit for two years has reached as high as \$20,000 according to a Wall Street Journal investigative article.<sup>127</sup>

## INSTITUTE FOR JUSTICE RECOMMENDATION:

**Application Process:** The Institute recommends following Los Angeles County's approach to permitting, which is less complex than the process in other jurisdictions. Most truck operators in other parts of the country report having to deal with two or more different agencies to get their permits, and having it take weeks, if not months, to complete the process. This complexity compounds the confusion that often surrounds the permitting process. As a food-truck operator in Philadelphia, which is known to have a complicated permitting process, said, "The government operates in silos, no agency is coordinated, no one person can give a succinct overview of the entire process, it seems like no one truly understands it comprehensively." Requiring multiple permits from many different government agencies makes it both more complicated and more expensive to get a truck on the road.

In terms of clarity, however, the Institute applauds Milwaukee and Boston for clearly explaining how to apply for a permit, and the Institute recommends that other cities publish similar step-by-step instruction guides. Operators across the

<sup>117</sup> Boston City Code § 17-10.5.

<sup>118</sup> City of Boston, Food Truck Permit Application 2012, [http://www.cityofboston.gov/Images\\_Documents/2012%20Food%20Truck%20Permit%20Application-4-12\\_tcm3-25641.pdf](http://www.cityofboston.gov/Images_Documents/2012%20Food%20Truck%20Permit%20Application-4-12_tcm3-25641.pdf).

<sup>119</sup> City of Boston, Mobile Food Truck: Choosing a Location For Your Food Truck, <http://www.cityofboston.gov/business/mobile/locations.asp>.

<sup>120</sup> See Pushcarts, Popcorn Trucks and Restaurants on Wheels: A Guide for Operators of Mobile Food Establishments from the City of Milwaukee Health Department, [http://city.milwaukee.gov/ImageLibrary/Groups/health-Authors/CEH/PDFs/pushcarts\\_booklet\\_for\\_web\\_2010.pdf](http://city.milwaukee.gov/ImageLibrary/Groups/health-Authors/CEH/PDFs/pushcarts_booklet_for_web_2010.pdf).

<sup>121</sup> See City of Boston, Mobile Food Truck: Permit Overview, <http://www.cityofboston.gov/business/mobile/application.asp>.

<sup>122</sup> Boston City Code § 17-10.9(b).

<sup>123</sup> Cleveland City Code § 241.05(d).

<sup>124</sup> D.C. Department of Consumer and Regulatory Affairs, Mobile Food Truck Licensing Information, <http://d.c.gov/DC/DCRA/for+business/apply+for+a+business+license/how+to+start+a+mobile+food+truck+business>. (stating that food-truck licenses "are issued to individuals not businesses and the truck must be operated by the individual who is issued the license").

<sup>125</sup> New Orleans City Code § 110-191(6).

<sup>126</sup> New York City Code § 17-307(b)(2)(a) to (b)(3)(a).

<sup>127</sup> Sumathi Reddy, *Prices for Food-Cart Permits Skyrocket*, Wall Street Journal, March 5, 2011, <http://online.wsj.com/article/SB10001424052748704758904576188523780657688.html>.

country repeatedly complain that the most frustrating aspect of the permitting process is not the specific requirements involved, but the lack of clear, consistent instructions on how to complete them. According to food-truck entrepreneurs with whom the Institute spoke, officials often don't seem to know all the rules, are unhelpful or give conflicting information.

**Cost:** The Institute, after reviewing the cost of applying for vending permits across the country, recommends that cities should impose a flat annual fee in the range of \$200-300, as both Cleveland and Kansas City have done. Businesses should not be viewed as a cash cow, and the Institute for Justice recommends that fees be no higher than necessary to cover the cost of inspecting and regulating the food trucks. Furthermore, those fees should be relatively stable and known to would-be truck operators before they enter the business. For this reason, the Institute for Justice recommends that cities not adopt Boston's convoluted fee structure.

**Who the License Covers:** The Institute for Justice recommends that cities follow the example of Los Angeles County by letting operators decide whether to have a license or permit issued to them personally or to their vending business. Cleveland, for instance, issues food-truck licenses to "vendors," which can be either an individual or the associated business.<sup>128</sup> Brick-and-mortar restaurants need not get a separate license for each shift manager; similarly, taking this simple step will let trucks avoid the time and expense of acquiring a vending permit for each manager who oversees truck operations.

**Limits on the Number of Permits Issued:** The Institute for Justice recommends that cities follow the example of Los Angeles and not limit the number of food-truck permits. Placing an arbitrary limit on how many licenses may be issued does not address any actual health and safety issues. Instead, it acts as a barrier to new food trucks while enriching those few who are lucky enough to have snared a permit. Furthermore, a limit hurts consumers by limiting their choices. Lastly, a cap is unnecessary, as consumer demand will guide how many food trucks will voluntarily choose to operate in a given city.

#### **BOTTOM LINE:**

***Application Process:*** Cities should follow the licensing approach of Los Angeles County, which is not plagued by unnecessary complexity. In terms of guidance, cities should emulate Boston and Milwaukee, which both have published step-by-step instructions to guide entrepreneurs through the licensing process.

***Cost:*** Cities should follow the approach of both Cleveland, and Kansas City, Mo., by imposing a flat annual fee in the range of \$200-300.

***Who the License Covers:*** Cities should follow the approach of Los Angeles by issuing vending licenses to an individual's vending businesses rather than the individual himself or herself.

***Limits on the Number of Permits Issued:*** Cities should follow the approach of Los Angeles and not cap the number of food-truck permits, which hurts consumers and leads to an illicit black market for permits, as it has in New York City.

### **Innovation: Reciprocal Licensing Arrangements**

One major hurdle for food-truck entrepreneurs is having to get a separate license for each town in which they want to operate their trucks. This requirement makes little sense, particularly given that inspectors in many states verify food trucks' safety using a common set of criteria that are developed at the state level. Cities should consider entering into reciprocal licensing arrangements with nearby communities. A compact or joint agreement between different cities would mean that a truck would need to get licensed only once; it then could operate in any city that was a party to that joint agreement. This approach would cut a vast amount of red tape and make the trucks more commercially viable while still ensuring that the trucks met each city's legitimate health and safety concerns.

<sup>128</sup> Cleveland City Code § 241.03(3).

## CONCLUSION

A vibrant food-truck industry benefits everyone. It provides consumers with a wide variety of innovative, inexpensive cuisine that they might otherwise not get to enjoy. It gives would-be entrepreneurs who are long on ideas but short on financial capital a way to pursue their dream. And it can activate underused spaces, bring new life to communities and make them safer, more enjoyable places to live.

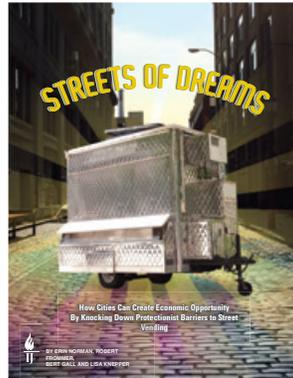
Public-minded officials who want to make their cities better would do well to encourage food-truck entrepreneurship. Thankfully, this commitment doesn't require paying for an expensive new program or hiring dozens of vending "experts." Instead, cities can look to other cities that have experience regulating food trucks, such as Los Angeles, and then adopt their best legislative practices by implementing the recommendations in this report. By avoiding protectionist restrictions and enacting clear, narrowly tailored and outcome-based laws to address legitimate health and safety issues, cities will enable their residents to enjoy all of the economic and cultural benefits of America's growing food truck revolution.

*An online compendium containing the full language of the laws cited in this report can be found at <http://www.ij.org/vending>.*





OTHER PUBLICATIONS OF THE INSTITUTE FOR JUSTICE'S  
NATIONAL STREET VENDING INITIATIVE



*Street of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending* (July 2011)  
<http://www.ij.org/streets-of-dreams-2>

*Seven Myths and Realities about Food Trucks: Why the Facts Support Food-Truck Freedom* (November 2012)  
<http://www.ij.org/vending>

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*Chicago Food Trucks*  
[www.ij.org/ChicagoFoodTruckVideo](http://www.ij.org/ChicagoFoodTruckVideo)



*Atlanta Vending*  
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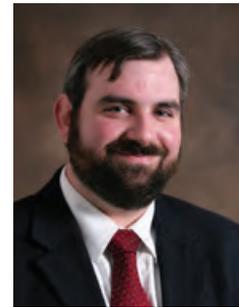


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## ROBERT FROMMER

Robert Frommer is an attorney with the Institute for Justice, where he litigates in defense of political speech, economic liberty and private property.

Frommer is lead counsel on the Institute for Justice's lawsuit against the city of Chicago's anti-competitive food-truck law. He is also lead counsel on a lawsuit challenging Atlanta's vending monopoly and is a co-author of *Streets of Dreams*. Frommer's views have been published in a number of print and on-line newspapers and journals, including *The Wall Street Journal*, *The Washington Post* and the *Pittsburgh Post-Gazette*.



Before joining IJ, Frommer was an attorney with the Washington, D.C., office of Gibson, Dunn & Crutcher LLP. He is a former law clerk to Judge Morris Sheppard Arnold of the U.S. Court of Appeals for the Eighth Circuit. Frommer received his law degree magna cum laude from the University of Michigan Law School in 2004.

## BERT GALL

Bert Gall is a senior attorney at the Institute for Justice, where he litigates economic liberty, free speech, school choice and property rights cases nationwide.

Gall directs IJ's National Street Vending Initiative, a nationwide effort to vindicate the right of street vendors to earn an honest living by fighting unconstitutional vending restrictions in courts of law and the court of public opinion. In addition to serving as co-counsel in IJ's current challenge to Chicago's protectionist food-truck law, he also served as co-counsel in IJ's successful challenge to El Paso's protectionist restrictions on mobile vendors, which resulted in El Paso repealing those restrictions.



Gall received his law degree from Duke University in 1999 and his undergraduate degree from Rice University. Before coming to the Institute, he worked at Helms Mulliss & Wicker in Charlotte, N.C., and clerked for Judge Karen Williams of the U.S. Court of Appeals for the Fourth Circuit.

In 2009, Gall was recognized by *The National Law Journal* as one of its "Rising Stars: Washington's 40 under 40," which honored the top 40 lawyers under the age of 40 in the Washington, D.C., area.

## ACKNOWLEDGEMENTS

The authors would like to thank the many food-truck associations whose members and officers provided valuable information and feedback, including Matt Geller, CEO of the Southern California Mobile Food Vendor's Association (SoCalMFVA); Jeffrey Dermer and Kevin Behrendt, counsel for SoCalMFVA and partners in law firm Dermer & Behrendt; Executive Director Che Ruddell-Tabisola and Doug Povich of the Food Truck Association of Metropolitan Washington; Rachel Billow, President of the New Orleans Food Truck Coalition; and Rebecca Kelly, President of the Tallahassee Food Truck Association. The authors would also like to thank Jon Markman, Akil Alleyne, Jordan Fischetti, Brad King, Eddie Lowe, Katie McLay, Nick Sibilla, Bryson Smith and Andrew Ward for their help in compiling and analyzing the data underlying this report.

Designed by Robyn Patterson.

## THE INSTITUTE FOR JUSTICE

*The Institute for Justice is a nonprofit, public interest law firm that litigates to secure economic liberty, school choice, private property rights, freedom of speech and other vital individual liberties and to restore constitutional limits on the power of government. Founded in 1991, IJ is the nation's only libertarian public interest law firm, pursuing cutting-edge litigation in the courts of law and in the court of public opinion on behalf of individuals whose most basic rights are denied by the government. Through its National Street Vending Initiative, the Institute for Justice works to defeat anti-competitive restrictions that violate the constitutional rights of street vendors to earn an honest living.*



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**SECTION 10. MISC ITEMS** (including policy discussions & determinations)

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**GOLD BEACH CITY COUNCIL AGENDA REPORT**

Agenda Item No. **10. b.**  
Council Meeting Date: September 14, 2020

**TITLE: Official Candidates for November Election**

**SUMMARY AND BACKGROUND:**

Filing for Council positions #2 and #4 and the Mayor closed on August 25<sup>th</sup>. We have 6 candidates total and each race is contested. Attached is the letter that was sent to the County Elections office for the November ballot.



# City of Gold Beach

29592 Ellensburg Avenue • Gold Beach, OR 97444

Administration: 541-247-7029 • Police: 541-247-6671 • [www.goldbeachoregon.gov](http://www.goldbeachoregon.gov)

Visitor Center: 541-247-7526 • [www.visitgoldbeach.com](http://www.visitgoldbeach.com)

Tuesday, August 25, 2020

Via email hardcopy to be delivered in person

Renee Kolen - Curry County Clerk

**RE: City Council Candidates for November 3<sup>rd</sup> Ballot**

Dear Renee:

The City of Gold Beach has the following Council positions up for the November 3<sup>rd</sup> election: Council Positions #2, and #4, and the Mayor. The following individuals have met the City Charter and Code filing requirements to be candidates for the respective City Council positions. I have listed the names as they stated they would like them to appear on the ballot. For your records I have attached copies of their completed SEL 101 forms.

#### Mayor Candidates:

- Incumbent Karl Popoff, filed by paying the required fee August 25<sup>th</sup>
- Councilor Tamie Kaufman, filed by paying the required fee July 16<sup>th</sup>

#### Council Position #2 Candidates

*Incumbent Larry Brennan chose not to run for this election*

- Chip Bradley, filed by paying the required fee August 21<sup>st</sup>
- Beth Barker-Hidalgo, filed by paying the required fee August 24<sup>th</sup>

#### Council Position #4 Candidates

- Incumbent Becky Campbell, filed by paying the required fee July 16<sup>th</sup>
- Jeff Crook, filed by paying the required fee 24<sup>th</sup> (*Crook initially filed for Position 2 on August 24<sup>th</sup>, then withdrew and filed for Position 4 on August 25<sup>th</sup>*)

Please let me know if you need anything additional from me for these candidates to be included on the November 3<sup>rd</sup> ballot to run for City elected office. Thank you.

Sincerely,

Jodi Fritts, City Administrator/City Recorder

[jfritts@goldbeachoregon.gov](mailto:jfritts@goldbeachoregon.gov)

*The City of Gold Beach is dedicated to enhancing quality of life, while promoting the health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community.*





**SECTION 10. MISC ITEMS** (including policy discussions & determinations)

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**GOLD BEACH CITY COUNCIL AGENDA REPORT**

Agenda Item No. **10. c.**  
Council Meeting Date: September 14, 2020

**TITLE: Councilor Concerns**

**SUMMARY AND BACKGROUND:**

Councilors have brought a few concerns to staff in the past month as it relates to the COVID situation and now the statewide fire disaster. No report to address, but just a discussion topic for the meeting.