

ELKO NEW MARKET - PLANNING COMMISSION MEETING

PC Members: Brad Smith, Nicole Kruckman, Thomas Humphrey, Melissa Hanson, Todd Priebe and Harry Anderson
City Staff: City Planner Bob Kirmis, Community Development Specialist Renee Christianson and City Engineer Rich Revering



AGENDA

TUESDAY, JANUARY 29, 2019 @ 7:00 PM
COUNCIL CHAMBERS – NEW MARKET AREA HALL
601 MAIN STREET, PO BOX 99, ELKO NEW MARKET, MN 55020

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF AGENDA**
Consider Approval of the Agenda
- 4. PUBLIC COMMENT** (public opportunity to comment on items not listed on the agenda)
- 5. ANNOUNCEMENTS**
 - A. Introduction of Planning Commissioner Todd Priebe
- 6. APPROVAL OF MINUTES**
Consider Approval of the following:
 - A. November 27, 2018 Meeting Minutes
- 7. PUBLIC HEARINGS**
 - A. None
- 8. GENERAL BUSINESS**
 - A. Food Truck Discussion
- 9. MISCELLANEOUS**
 - A. City Staff/Consultant Business Updates & Reports
 - B. Planning Commission Questions & Comments
- 10. ADJOURNMENT**

BOARD NOTICE:

TO DETERMINE IF A QUORUM WILL BE PRESENT, PLEASE CONTACT ELKO NEW MARKET AREA HALL AT 952-461-2777
IF YOU ARE UNABLE TO ATTEND

PUBLIC NOTICE:

ANYONE SPEAKING TO THE BOARD SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD

**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
November 27, 2018
7:00 PM**

1. CALL TO ORDER

Vice-Chairman Smith called the meeting of the Elko New Market Planning Commission to order at 7:00 p.m.

Commission members present: Smith, Kruckman, Humphrey, and Hanson

Members absent and excused: Ex-officio member Anderson

Staff Present: Community Development Specialist Christianson,
Community Development Intern Haley Sevening, City
Engineer Revering

2. PLEDGE OF ALLEGIANCE

Vice-Chairman Smith led the Planning Commission in the Pledge of Allegiance.

3. APPROVAL OF AGENDA

A motion was made by Humphrey and seconded by Kruckman to approve the agenda as submitted. Motion carried: (4-0).

4. PUBLIC COMMENT

A. Oakland Property

Sheryl Petrashek introduced herself as the Realtor representing Ted and Pamela Oakland who reside at 7837 260th Street East, and stated that they had a purchase agreement with a developer who has not performed on their contract. She stated that they would be seeking additional development opportunities / investors. She asked about the recent annexation and how that may affect the Oaklands, and asked what options there may be for development of the property. She specifically asked about the possibility of large-lot development.

Christianson responded, stating that the annexation has been completed and the property is now located in the City limits. There would be minimal effect on the Oakland property, other than a change in property tax levy for the city/township portion of the property taxes. They would also be under City police jurisdiction versus the County sheriff jurisdiction and would now vote in City elections rather than the Township. Christianson stated that the City would not support large lot development of the property and that it would be considered an obstacle to orderly municipal growth. She stated that it is the City's intent to continue the extension of City sewer and water, and urban style development, to the west of the current City limit boundary.

Mr. Ted Oakland, 7837 260th Street East, also addressed the Commission and asked what affect the annexation would have on his property and what would be allowed on his property. Christianson reiterated earlier feedback, and City Engineer Revering noted that all new development is required to connect to City sewer and water.

5. APPOINTMENT OF CHAIR AND VICE-CHAIR

Christianson noted that due to the recent resignation of Chairman Thompson, the Commission must appoint a new Chair and Vice-Chair for the remainder of the appointment term, which expires on March 31, 2019. After discussion, it was moved by Humphrey and seconded by Kruckman to appoint Commissioner Smith as Chairman. Motion carried: (4-0). It was then moved by Smith and seconded by Kruckman to appoint Humphrey as Vice-Chair. Motion carried: (4-0).

6. ANNOUNCEMENTS

B. Introduction of Planning Commissioner Melissa Hanson

Christianson introduced newly appointed Planning Commissioner Melissa Hanson who was recently appointed by the City Council to serve the remainder of Steve Thompson's term. Her term expires on March 31, 2021. Hanson also introduced herself, citing that she works for the Scott County Community Development Agency administering housing programs, and noting that she is passionate about affordable housing.

C. Resignation of Planning Commissioner Heather Vetter

Christianson advised the Commission that Commissioner Heather Vetter has resigned from the Commission effective October 24, 2018. The City Council has accepted her resignation and acknowledged her for her service to the City. The vacancy has been declared and advertised on the City's website and social media outlets.

D. Introduction of Community Development Intern Haley Sevening

Christianson introduced Haley Sevening who was hired as an intern and is assisting in all areas of the City government, including Community Development, Administration and Parks. Sevening is a second year graduate student at the University of Minnesota.

7. APPROVAL OF MINUTES

A motion was made by Humphrey and seconded by Kruckman to approve the minutes of the September 25, 2018 Planning Commission meeting as written. Motion carried: (4-0).

8. PUBLIC HEARINGS

A. Draft Amendment to Zoning Ordinance – Residential Lot Size Requirements

Christianson provided background information regarding on the proposed amendment to the Zoning Ordinance. She explained that the City currently has five residential zoning districts, and single family homes are currently allowed in the R1 and R2 districts, which are low density residential districts. The R3 district is a medium density district, the R4 is a high density district, and the R5 is a downtown high density / mixed use district. She noted that all new single family development has historically been directed to the R1 district, which

has a minimum lot size of 12,000 square feet and a minimum lot width of 85'. Christianson explained that recently the City has been receiving many requests and inquiries for Planned Unit Development (PUD) zoning for the purpose of requesting smaller residential lots than allowed in the R1 district, and that upon research of other communities it was found that the majority allow a smaller lot size than Elko New Market's R1 district standards.

Christianson stated that the Commission has reviewed the topic over several Planning Commission meetings and ultimately directed staff to draft an ordinance amendment that would allow a developer to request either R1, R2 or R3 zoning for single family developments, with the following directives:

- Add clarifying language to both the Comprehensive Land Use Plan and also the R1 and R2 district "purpose" to further clarify where the City would support the use of R1 and R2 zoning.
- Leave the R1 district standards as currently written.
- Amend the minimum standards in the R2 district to 8,400 square foot minimum lot size and 70' minimum lot width.
- Amend the R3 district to allow a single family detached home as a permitted use on a smaller lot size.

Christianson reviewed the proposed changes and also reviewed hypothetical infrastructure costs for a residential development and the number of lots that could be achieved using an 85' lot width versus a 70' lot width, and also the potential difference in gross revenues on a project.

Chairman Smith opened the public hearing at 7:24 p.m. Todd Priebe, 10386 Windrose Curve, addressed the Commission. He stated that he is a Realtor and that he does work with many investors and developers. He expressed his support for the ordinance amendment and noted that many other communities do allow a smaller lot. He also stated that overall, the market is going to a smaller, narrower lot size for residential development. Chairman Smith asked several questions regarding the proposed ordinance amendments. With no further comments, the public hearing was closed at 7:47 p.m.

Following discussion on the topic, it was moved by Humphrey and seconded by Kruckman to recommend approval of the proposed zoning ordinance amendment to the City Council, as contained in the Planning Commission Memorandum dated 11/27/18. Motion carried: (4-0).

9. GENERAL BUSINESS

A. Draft Amendment to Zoning Ordinance – Performance Standards

Christianson presented her staff report containing recommended changes to various sections of the Zoning Ordinance containing performance standards for various uses. She stated that performance standards for various uses are currently repeated in several different sections of the Ordinance. She recommends that they be removed from the individual zoning districts and placed only in Section 5 – General Zoning Regulations. She stated that Haley Sevensing

researched and compared the standards contained in all of the individual business zoning districts to make sure all of the standards were identical. The Commission supported the proposed changes which would simplify the Ordinance. Christianson noted that staff is working on additional clean-up items in the Zoning Ordinance and will bring additional items to the Commission for review before requesting a public hearing on the proposed changes.

10. MISCELLANEOUS

A. City Staff/Consultant Business Updates and Reports

Community Development Specialist Christianson stated that a report containing updates on various projects was contained in the Planning Commission packets. There were no additional questions regarding the report

B. Concept Sketch Plan – Aaron Le Property

Christianson stated that the City has received a concept development plan for a proposed residential development containing 81 lots, and that staff was currently compiling comments on the proposed layout. The property would require annexation. The concept plan drawing was provided to the Commission. Commissioner Kruckman noted that the layout contained 65' wide lots, and that the new proposed standards is 70'.

C. Planning Commission Questions and Comments

There were not questions or comments from the Commission..

11. ADJOURNMENT

A motion was made by Humphrey and seconded by Smith to adjourn the meeting at 8:10 p.m. Motion carried: (4-0).

Submitted by:



Renee Christianson
Community Development Specialist



601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

MEMORANDUM

TO: PLANNING COMMISSION
FROM: HALEY SEVENING, COMMUNITY DEVELOPMENT INTERN
RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
RE: FOOD TRUCKS
DATE: JANUARY 29, 2019

Background / Existing Regulations

Staff would like to resume the discussion of food truck regulations within the City limits with the Planning Commission. Currently, food trucks are not specifically regulated within the City Code. However, food trucks and food stands operating in Scott County are licensed and regulated by the Minnesota Department of Health (MDH) based on the following definitions:

“Mobile food unit” means a food and beverage service establishment that is a vehicle mounted unit, either:

- (1) motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; or
- (2) operated in conjunction with a permanent business licensed under chapter 157 or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location. – Minnesota Statutes, section 157.15, subdivision 9

“Seasonal temporary food stand” means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates for no more than 21 days annually at any one location, except as provided in paragraph (b).

- (b) A seasonal temporary food stand may operate for more than 21 days annually at any one place with the approval of the regulatory authority, as defined in Minnesota Rules, part 4626.0020, subpart 70, that has jurisdiction over the seasonal temporary food stand. – Minnesota Statutes, section 157.15, subdivision 13

“Seasonal permanent food stand” means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually. – Minnesota Statutes, section 157.15, subdivision 12a

Mobile Food Units (MFUs), Seasonal Temporary Food Stands (STFs), and Seasonal Permanent Food Stands (SPFs) are subject to the Minnesota Food Code and must undergo a plan review and preoperational inspection by the MDH prior to being licensed by the State. Plan review includes a detailed look at:

- The intended menu
- A description of the proposed project including the anticipated volume of food to be stored, prepared, sold or served
- Easily readable layout drawn to scale indicating the location of all equipment (e.g., cooking equipment, ventilation hood, refrigerators, food prep counters, handwashing sink(s), three-compartment sink, and food prep sink)
- Finish materials for floors, base coves, walls, and ceilings
- Proposed equipment list that includes types, manufacturers and model numbers
- Manufacturer's specification sheets for new equipment
- Counters and cabinetry shop drawings, indicating cabinet construction, and countertop finish
- Size of water heater, and fresh water and wastewater holding tanks
- The source of water (private or public) for the MFU, STF or SPF
- The method of sewage disposal (public or private) for the MFU, STF or SPF
- A copy of the zoning approval or building permit from the local unit of government for SPF

Minnesota Statute also restricts MFUs, STFs, and SPFs from using or serving food that was stored or prepared in a private home and conducting catering operations, unless the catering operations are approved by the local jurisdiction.

Apart from State Statute the Elko New Market City Code does not currently contain regulations specific to food trucks. Under the current code, a MFU would be considered a Transient Merchant, which is defined as:

“A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty storefront for the purpose of exposing or displaying for sale, selling or attempting to sell and delivering goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than fourteen (14) consecutive days.”

The City Code requires that a Transient Merchant license, which is an “annual” license, be obtained. The current fee is \$65 per person. Transient Merchant licensing requirements are not contained within the zoning or subdivision regulations, and are therefore, not currently under the purview of the Planning Commission.

Why Might Mobile Food Units be Regulated?

Food trucks are growing in popularity throughout the region and have begun operating on occasion in Elko New Market. Regulations specific to MFUs are commonly considered by cities in order to reduce potential negative impacts such as competition with brick and mortar restaurant establishments and to mitigate public nuisances. MFUs are commonly viewed as a means to promote economic activity within a community and provide culinary diversity at community events. However, some fear that they may also prevent fair competition with existing brick and mortar establishments since MFUs are not subject to property taxes or other zoning or building regulations. MFUs also have the potential to become a public nuisance through the noise, smell, and/or light they emit and the fire, traffic, and/or safety hazards they may create. Finally, since the existing Transient Merchant regulations are not specific to MFUs, licensing and regulating MFUs is more challenging.

Mobile Food Unit Research

Staff researched the MFU regulations of several other communities, the results of which are summarized in the attached “The Mobile Food Unit Regulations Attachment”. The research of other community’s codes revealed three ways in which MFUs are commonly regulated:

- (1) No Regulation (i.e. New Prague and Prior Lake)
- (2) Regulation without a License (i.e. Eden Prairie)
- (3) Regulation with a License (i.e. Jordan, Lakeville, Shakopee, etc.)

Every city researched seems to regulate food trucks differently based upon the unique needs and concerns of the community. For those cities that chose to regulate MFU’s, there are common sections in their codes, including license applications (when a license is required), limitations on locations, performance standards (i.e. days/hours of operation, grey water/waste disposal, size of truck, power supply, signs, fire/safety regulations, and proof of MDH license), prohibited practices, suspension or revocation of license, and penalties. Within each of these sections a number of additional factors must also be considered such as:

- Should the regulation require a license? If so, should it be annual, temporary, and/or daily and what are the fees and application requirements associated with the license?
- Where should MFUs be able to operate? On private property only? On public property/public rights of way? A specific distance from existing brick and mortar establishments? Within certain zoning districts only?
- When should MFUs be able to operate? Between certain months? Between certain hours of the day? At community events?
- What performance standards should MFUs be subject to?
- Should MFUs be prohibited from catering?
- How will the City enforce the regulation?

Also attached is a document published by the National League of Cities, Food on Wheels: Mobile Vending Goes Mainstream, which summarizes their research regarding MFU’s and provides best practices intended to balance the concerns of mobile vendors, restaurant owners, the community, and government.

Next Steps

City staff is seeking input on the topic from the following identified stakeholder groups:

- Planning Commission (representing the community as a whole)
- Community & Civic Events Committee (CCEC) (representing various community events)
- Chamber of Commerce (representing the business community)
- Fire Department (representing Fire Rescue Days)
- Local restaurant businesses and liquor establishments

Input received from the various stakeholder groups will be presented to the City Council for consideration. The City Council will provide further direction on the matter after considering input from the stakeholder groups.

Requested Action

Staff is seeking Planning Commission feedback on the potential development of a regulation specific to MFUs. Any potential regulations would be contained in the business and license regulations section of the

Food Truck

January 29, 2019 Planning Commission Meeting

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City Code and not the zoning or subdivision regulations. The City's full code can be found online at https://www.sterlingcodifiers.com/codebook/index.php?book_id=898 and the business and license regulations are contained in Title 4. Planning Commission feedback will be provided to the City Council for consideration, along with feedback from the other stakeholder groups. Specific questions for the Planning Commission are shown below and additional input is welcome.

- Should the City Council regulate Mobile Food Units (MFU)?
- If MFU regulations are recommended, should the regulations simply be stated in the City Code, or should a license be required?

- Should the Commission feel that MFU's be regulated, additional questions are as follows:
 - Should MFU's be allowed in commercial zoning districts?
 - Should MFU's be allowed in industrial zoning districts?
 - Should MFU's be allowed in residential zoning districts?
 - Should MFU's be allowed on private property?
 - Should MFU's be allowed on public property?
 - Should MFU's be allowed within public street rights-of-way? (streets and sidewalks)
 - Should MFU's be limited to specific areas of the City?
 - Should MFU's have restricted hours of operation?
 - Should MFU's be required to be a minimum distance from existing restaurant establishments?
 - Should MFU's be required to be a minimum distance from schools?
 - Should MFU's be allowed to operate only in certain months of the year?
 - Should MFU's be allowed to operate during special community events, such as church, school or community festivals?
 - Should MFU's be allowed in conjunction with farmer's markets?
 - Should ice cream trucks be subject to the MFU regulations? Or should there be an exception for ice cream trucks to operate on City streets?
 - Should catering be allowed from a MFU?
 - Should a MFU be required to provide proof of state licensure? Proof of insurance?
 - Should background checks be required for MFU employees?
 - Should there be a City fee associated with licensing of MFU's?
 - Should the size of the MFU truck be regulated (maximum size)?
 - Should signage and / or lighting associated with MFU's be regulated?
 - Should the power supply options for MFU's be regulated?

Attachment:

Mobile Food Unit Regulations – Summary Table

Food on Wheels: Mobile Vending Goes Mainstream, National League of Cities

Mobile Food Unit Regulations

(Research 2019)

| City/Ordinance | License/Permit | Application Requirements | Exceptions | Conditions | Suspension/Revocation | Penalty | Notes |
|------------------------------|--|----------------------------------|---|--|--|--|---|
| Arden Hills | Temporary (7 days or less, \$30) or Annual (8 days or more, \$100) | See application. | None | Locations, Performance Standards, Practices Prohibited. | License suspended, revoked, or denied for renewal for any violations of the code or conditions of the license. | Misdemeanor. | |
| Baxter | Issues no more than four (4) mobile vending permits per calendar year (\$300/year). | Unknown | Mobile vending operations accessory to a permitted special event permit that is approved by the city. Mobile catering operations on private property. | Locations, Performance Standards, Permit Review. | Revoked by the city at any time for failure to comply with the provisions of the chapter/conditions of the permit. | Public nuisance. | |
| Brainerd | \$500/year | See application. | None | Boundaries/Permitted Hours of Operations, Permitted Uses. | | | Identified districts in which food trucks can operate. |
| Delano | \$20/day | See application. | None | Locations, Performance Standards, Permit Provisions, Restrictions. | Following a violation of the section, permits may be revoked after notice and a hearing conducted. | Misdemeanor. | Regulations included in conjunction with "Peddlers, Transient Merchants, and Solicitors. |
| Eden Prairie | None | None | None | Locations, Performance Standards. | N/A | Misdemeanor or public nuisance. | No permit/license. "All food stands and special event food stands shall comply with the following..." |
| Elk River | Annual \$100 | See application. | Mobile food units operating at a special event (special event permit). Mobile food units privately contracted by residential property owners for private parties in which food is not sold. Mobile food units operating at a school event on school property. | Locations, Performance Standards. | License can be suspended or revoked if failure to comply with ordinance. | N/A | Regulations included in conjunction with "Peddlers, Transient Merchants, and Solicitors. |
| Jordan | Annual (\$200) or one-day (\$25). | See application. | Existing licensed restaurants with brick and mortar physical sites within city limits are exempt from licensing requirements for special events. | Locations, Performance Standards, Prohibited Practices. | License can be suspended or revoked if ordinance is violated. | Guilty of misdemeanor and fined. | |
| Lakeville | Annual (\$150) or one-day (\$50). | See application. | Allowed only in conjunction with community events. | Performance Standards. | N/A | N/A | |
| New Prague | N/A | N/A | N/A | N/A | N/A | N/A | licenses in order to better support economic development. |
| Prior Lake | N/A | N/A | N/A | N/A | N/A | N/A | Prior Lake considered and researched regulating food trucks, but "Council decided to just see how it goes before regulating them. Our council decided to not 'create a solution without a documented problem' -- so really, a wait and see approach. So far, we don't have any complaints. If that changes in the future, we may revisit it." Lori Olson, Assistant City Manager. |
| Rothsay | Annual \$50 | See application. | None | Locations, Performance Standards. | Failure to comply can result in suspension/revocation. | Letter, phone call, visit from City Staff. Failure to comply may result in citations, fines, suspensions, and/or revocation. | |
| Shakopee | Temporary (10 days between March 15-Nov 15, FREE) and annual (April 1-Oct 31, \$50). | See application. | None | Locations, Performance Standards, Practices Prohibited. | License can be suspended or revoked if ordinance is violated. | Extensive. | |

FOOD ON WHEELS: Mobile Vending Goes Mainstream





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Executive Summary

Mobile food vending generates approximately \$650 million in revenue annually.¹ 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.² 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.³

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.⁴

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.⁵ 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.⁶

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.⁷ 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.⁸

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.⁹ 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.¹⁰

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.¹¹ Durham has adopted a 50 foot rule.¹²

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.¹³ 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).¹⁴ 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.¹⁵ 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.¹⁶ 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.¹⁷ 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.¹⁸



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.¹⁹

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.²⁰ 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.²¹ The majority of Portland's mobile vending occurs on private property, particularly surface parking lots.²² 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.²³

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.²⁴

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.²⁵

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.²⁶ 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.²⁷ 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.²⁸ The program restricted the use of these permits to centralized districts because of the added desire to infuse economic development into the city.²⁹ 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.³⁰ 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.³¹

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.³²

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.³³ 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.³⁴ 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.³⁵

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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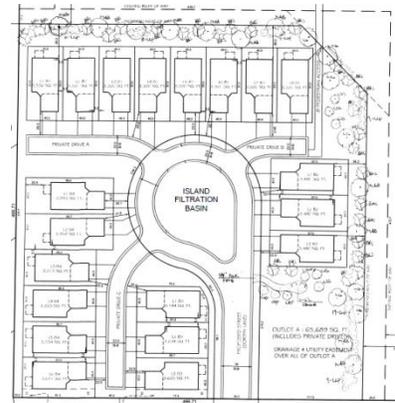
MEMORANDUM

TO: CITY COUNCIL, PLANNING COMMISSION, EDA & CHAMBER OF COMMERCE
FROM: RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
SUBJECT: COMMUNITY DEVELOPMENT UPDATES
DATE: JANUARY 25, 2019

Background / History

The purpose of this memo is to provide updates regarding miscellaneous projects and activities being worked on by Community Development staff. Below is a summary of projects that are currently being worked on, inquiries received, and miscellaneous information:

Christmas Pines – This is a residential detached townhome subdivision containing 20 lots. The City issued an early grading permit to the developer in September and initial site grading is complete. The developer decided to withhold installation of utilities due to early winter weather. The plat and development contract need to be signed by the developer; the project has been fully approved by the City.



Oakland Property / The Preserve at Elko New Market – Staff had been working with a developer regarding the proposed residential development of approximately 31 residential lots on ten acres on the west side of the City (diagram to left). The property owner and developer petitioned for annexation of the property which was completed in November. City staff recently learned that the original developer is no longer pursuing the project. Staff has since met with the real estate broker marketing the property, and two potential developers over the past few weeks. The property is currently listed for sale on the MLS.

Dakota Acres / City Owned Property – On June 14th the City Council approved a purchase agreement for the sale of a 3.1 acre City-owned property in Dakota Acres. A closing on the property is scheduled for Tuesday, December 18, 2018. The property is zoned High Density Residential, and the buyer’s intended use of the property is a 60-unit apartment development (two separate buildings). Below is a rendering of a proposed thirty-six unit building. The new owner is currently planning to construct one of the buildings in the summer of 2019.



Adelmann Property – City staff recently completed working with the Adelmann family on concept development plans for their properties located adjacent to the I-35 / CR 2 interchange (approximately 243 acres). The project included coming to an agreement regarding future land uses for the property, and the creation of concept development plans. An impressive marketing package was created, including a flyover video /rendering of how the property could be developed.

<https://www.youtube.com/watch?v=uGubOWmGRi0&feature=youtu.be>

A second phase of the project was kicked off in November 2018 and will include preparation of an AUAR, a required environmental study, a wetland delineation and tree inventory. The AUAR project is now underway and is expected to be completed late summer of 2019.



Aaron Le Property – City staff provided feedback on a concept development plan and possible annexation in December, 2018. A revised concept plan has now been submitted which depicts 77 single-family residential lots on approximately 33.5 acres. The property owner also met with the City’s Development Review Team to review the concept plan. (Concept plan to the right.)



Business Leads – Staff has received inquiries regarding a possible pharmacy, car wash, and medical marijuana dispensary.

Building Permits – The City issued permits for two single family homes in December, 2018. The total for 2018 is 31 housing unit permits (13 townhomes and 18 single family housing unit), up from 11 total units in 2017.

Ordinance Updates – On December 20, 2018 the City Council approved an amendment to the City’s zoning code which would allow a smaller single family residential lot size than is currently permitted by the City’s code in some areas of the City.

In November, 2018 the City Council approved amendments to the City’s Zoning Ordinance regarding permitted and conditional uses in the B1 Neighborhood Business zoning district. The changes made it easier for certain business to locate in the B1 zoning district without needing a conditional use permit and will also clean up some of the currently listed definitions.

Staff is currently researching possible regulations regarding food trucks. Feedback is being sought from various stakeholder groups before bringing the information to the City Council for further direction.

Networking – City Planning staff attended a SCALE meeting and also a New Market Township meeting, and gave a presentation regarding the I35/CR2 interchange area. Attended a Chamber of Commerce coffee/networking event.

Roundabout Project – City staff and Bolton & Menk, the City’s engineering firm, have been working on the roundabout project scheduled for construction in 2020. Final construction limits have been identified, including easements that are needed from three property owners. Staff has been working with the three property owners regarding easement terms, and has also received proposals for right-of-way agent services. Staff is preparing for an open house which has been scheduled for February 11, 2019. City staff updated the City’s website with the most recent information - <https://www.ci.enm.mn.us/roundabout>.

