

**CITY OF ELKO NEW MARKET  
CITY COUNCIL AGENDA  
ELKO NEW MARKET CITY HALL  
601 MAIN STREET  
ELKO NEW MARKET, MINNESOTA 55054  
THURSDAY, MARCH 28, 2019**

**BUSINESS MEETING  
6:30 PM**

**1. Call to Order**

**2. Pledge of Allegiance**

**3. Adopt/Approve Agenda**

**4. Presentations, Proclamations and Acknowledgements (PP&A)**

**5. Public Comment**

*Individuals may address the Council about any item not contained on the regular agenda. The Council may limit the time allotted to each individual speaker. A maximum of 15 minutes will be allotted for Public Comment. If the full 15 minutes are not needed for Public Comment, the City Council will continue with the agenda. The City Council will not normally take any official action on items discussed during Public Comment, with the exception of referral to staff or commission for future report.*

**6. Consent Agenda**

*All matters listed under consent agenda are considered routine by the City Council and will be acted on by one motion in the order listed below. There may be an explanation, but no separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and considered separately.*

- a. Approve March 14, 2018 Minutes of the City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds
- c. Adopt Resolution 19-13 One Day Gambling Permit for St. Nicholas Church
- d. Adopt Resolution 19-14 One Day Temporary Liquor License for St. Nicholas Church

**7. Public Hearings**

**8. General Business**

**9. Reports**

- a. Administration
  - i. Proclamation Policy
- b. Public Works
- c. Police Department
- d. Fire Department
- e. Engineering
- f. Community Development
  - i. Discussion Regarding Regulation of Mobile Food Units (Food Trucks)

- g. Parks Department
- h. Community & Civic Events Committee (CCEC)
- i. Other Committee and Board Reports
  - i. Scott County Association for Leadership and Efficiency (SCALE)
  - ii. Minnesota Valley Transit Authority (MVTA)
  - iii. I35 Solutions Alliance
  - iv. Chamber of Commerce
  - v. Downtown Improvement Committee

## **10. Discussion by Council**

## **11. Adjournment**

**1. CALL TO ORDER**

The meeting was called to order by Mayor Julius at 6:30 p.m.

Members Present: Mayor Julius, Councilmembers: Berg (arrived at 6:38pm), Schwichtenberg, Seepersaud and Timmerman

Members Absent: None

Also Present: City Administrator Terry and City Engineer Revering

**2. PLEDGE OF ALLEGIANCE**

Mayor Julius led the Council and audience in the Pledge of Allegiance.

**3. ADOPT/APPROVE AGENDA**

**MOTION** by Councilmember Timmerman, second by Councilmember Seepersaud to approve the agenda. **APIF, MOTION CARRIED**

**4. PRESENTATIONS, PROCLAMATIONS AND ACKNOWLEDGEMENTS**

**5. PUBLIC COMMENT**

None

**6. CONSENT AGENDA**

**MOTION** by Councilmember Timmerman, second Councilmember Schwichtenberg to approve Consent Agenda.

- a. Approve February 28, 2019 Minutes of the City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds
- c. Adopt Resolution 19-12 Supporting Legislation Authorizing Infrastructure Development Fees.

**APIF, MOTION CARRIED**

**7. PUBLIC HEARINGS**

None

**8. GENERAL BUSINESS**

**9. REPORTS**

a) **ADMINISTRATION**

Establish Interview Panels for Commissions

City Administrator Terry requested the City Council appoint interview panels for the Commissions. Standard practice in the past has been staff liaison for that particular Commission and the Chair of the Commission with a Member of the City Council. He thought it might be more efficient to have one appointee for both Commissions.

Councilmember Schwichtenberg indicated he would be willing to be on the interview panels for Commissions.

Appoint Fire Department Workgroup Representative

City Administrator Terry requested the City Council to appoint a representative to the Fire Department Workgroup. Councilmember Timmerman indicated she would volunteer as the representative to the Fire Department Workgroup.

b) PUBLIC WORKS

Written report included in Council Packet.

c) POLICE DEPARTMENT

Written report included in Council Packet.

City Administrator Terry stated the candidate the City had for the officer position has washed in the process. The next candidate in line will be contacted and will need to have a background check done and if the candidate makes it all the way to the start date, the date will be sometime in May 2019.

Councilmember Berg arrived at approximately 6:38pm

d) FIRE DEPARTMENT

None

e) ENGINEERING

None

f) COMMUNITY DEVELOPMENT

Written draft February 26, 2019 Planning Commission Minutes included in Council Packet.

g) PARKS DEPARTMENT

Written Parks Commission Update and Minutes included in Council Packet.

h) OTHER COMMITTEE AND BOARD REPORTS

i. SCALE

Councilmember Seepersaud updated the Council on the Housing Workshop meeting.

Mayor Julius noted he was elected as Vice-Chair of SCALE.

City Administrator Terry updated the Council on the Drug Court Panel and how it worked.

ii. MVTA

None

iii. I35 SOLUTIONS ALLIANCE  
None

iv. CHAMBER OF COMMERCE  
None

v. DOWNTOWN IMPROVEMENT COMMITTEE  
None

**10. DISCUSSION BY COUNCIL**

None

**11. ADJOURNMENT**

**MOTION** by Councilmember Timmerman, second by Councilmember Seepersaud, to adjourn the meeting at 6:43 p.m. **APIF, MOTION CARRIED**

Respectfully submitted by:

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Thomas Terry, City Administrator



# STAFF MEMORANDUM

<b>SUBJECT:</b>	Presentation of Elko New Market Claims and Electronic Transfer of Funds
<b>MEETING DATE:</b>	March 28, 2019
<b>PREPARED BY:</b>	Stephanie Fredrickson, Administrative Assistant
<b>REQUESTED ACTION:</b>	Approve Payment of Current Claims

## COMMUNITY VISION:

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## 5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
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- The development of residential lots and an increase in residential building permit activity

## COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

**BACKGROUND**

Each City Council meeting the Administrative Assistant presents for approval the Elko New Market Claims and Electronic Transfer of Funds.

**BUDGET IMPACT:**

Budgeted

Attachments:

- Check Summary Register

**\*Check Summary Register©****March 28, 2019**

Name	Check Date	Check Amt	
<b><u>AUTOPAYS</u></b>			
Paid Chk# 006000EPEPA	3/20/2019	\$6,619.19	Vendor Liability
Paid Chk# 006001EMN DEPT OF REVENUE	3/20/2019	\$1,933.21	Vendor Liability
Paid Chk# 006002EINTERNAL REVENUE SERVICE	3/20/2019	\$9,537.20	Vendor Liability
Paid Chk# 006003EHEALTH EQUITY, INC.	3/21/2019	\$438.84	HSA EE Contributions PR6
Paid Chk# 006004EHEALTH EQUITY, INC.	3/21/2019	\$32.45	HSA Monthly Fee
Paid Chk# 006005ENUVERA COMMUNICATIONS, INC.	3/20/2019	\$322.30	Police Dept Phone/Fax
Paid Chk# 006006ENUVERA COMMUNICATIONS, INC.	3/20/2019	\$529.06	Area Hall Phone/SCADA
Paid Chk# 006007EMN VALLEY ELECTRIC COMPANY	3/22/2019	\$79.00	268X Xerxes Water Tower, Elko
Paid Chk# 006008ENUVERA COMMUNICATIONS, INC.	3/20/2019	\$49.99	139503 - 25499 Natchez Ave
Paid Chk# 006009ENUVERA COMMUNICATIONS, INC.	3/20/2019	\$169.11	937759 - 25499 Natchez Ave Bld
Paid Chk# 006010EDAKOTA ELECTRIC ASSN	3/29/2019	\$128.18	Ptarmigan Drive Streetlights
Paid Chk# 006011EXCEL ENERGY	4/1/2019	\$5,112.94	601 Main Street
Paid Chk# 006012EMN VALLEY ELECTRIC COMPANY	4/9/2019	\$25.50	City of Elko Park
<b>TOTAL</b>		<b>\$24,976.97</b>	
<b><u>PRE-PAIDS</u></b>			
Paid Chk# 039549 PAYROLL	3/21/2019	\$69.26	
Paid Chk# 039550 PAYROLL	3/21/2019	\$429.25	
Paid Chk# 039551 PAYROLL	3/21/2019	\$46.17	
Paid Chk# 039552 PAYROLL	3/21/2019	\$46.17	
Paid Chk# 039553 PAYROLL	3/21/2019	\$69.26	
Paid Chk# 039554 UNITED STATES POSTAL SERVICE	3/20/2019	\$335.67	Issue 1 2019 Newsletter
Paid Chk# 039555 MCFOA	3/20/2019	\$45.00	Lynda Jirak New Membership
<b>TOTAL</b>		<b>\$1,040.78</b>	
<b><u>CHECK REGISTER</u></b>			
Paid Chk# 039556 AIRGAS USA, LLC	3/28/2019	\$145.40	FD - Oxygen
Paid Chk# 039557 ANCHOR SOLAR INVESTMENTS, LLC.	3/28/2019	\$487.16	Solar Panel Lease Pmt
Paid Chk# 039558 BODYWERKS	3/28/2019	\$4,143.35	2017 Ford Explorer Squad Repairs
Paid Chk# 039559 CAMPBELL KNUTSON	3/28/2019	\$5,593.01	CO RD 2 & 91 Roundabout
Paid Chk# 039560 CINTAS CORPORATION NO. 2	3/28/2019	\$37.34	PW Operating Supplies
Paid Chk# 039561 ECOLAB	3/28/2019	\$161.54	Pest Control
Paid Chk# 039562 ENM FIRE RELIEF ASSN.	3/28/2019	\$3,000.00	2019 Reimburse Retirement Supp
Paid Chk# 039563 FASTENAL COMPANY	3/28/2019	\$102.58	PW - Operating Supplies
Paid Chk# 039564 FLEET SERVICES &	3/28/2019	\$31.83	PW - Fleet Maint & Equip
Paid Chk# 039565 FLOYD TOTAL SECURITY	3/28/2019	\$193.75	Key FOB's
Paid Chk# 039566 KELLEY FUELS, INC.	3/28/2019	\$2,479.59	PD - Fuel
Paid Chk# 039567 LAKEVILLE SANITARY, INC.	3/28/2019	\$314.69	11039 - 25499 Natchez Ave
Paid Chk# 039568 LEAGUE OF MN CITIES	3/28/2019	\$100.00	Loss Control Workshop -Tom Terry
Paid Chk# 039569 LOFFLER COMPANIES	3/28/2019	\$67.56	PD Copier
Paid Chk# 039570 MAMA-METRO AREA MGMT ASSN	3/28/2019	\$25.00	Tom Terry Luncheon Feb 28, 2019
Paid Chk# 039571 MANDERS DIESEL	3/28/2019	\$74.36	PW - Fleet Maint & Equip
Paid Chk# 039572 MAREKS TOWING & REPAIR INC.	3/28/2019	\$191.00	PW - Fleet Maint & Equip
Paid Chk# 039573 MENARDS - BURNSVILLE	3/28/2019	\$256.89	PW - Small Tools
Paid Chk# 039574 MN BOARD OF PEACE OFFICER	3/28/2019	\$270.00	Peace Officer License Renew -
Paid Chk# 039575 MVTL LABORATORIES	3/28/2019	\$95.00	PW - Water Testing
Paid Chk# 039576 NAPA AUTO PARTS	3/28/2019	\$783.32	PW - Fleet Maint & Equip
Paid Chk# 039577 NORTHLAND PEST CONTROL	3/28/2019	\$21.25	Pest Control - Library
Paid Chk# 039578 NOVACARE REHABILITATION	3/28/2019	\$120.00	Pre-employ Testing - Lynda Jirak
Paid Chk# 039579 QUILL CORPORATION	3/28/2019	\$307.47	Operating Supplies
Paid Chk# 039580 COREY SCHWEICH	3/28/2019	\$186.76	Water Operating Training - Mileage
Paid Chk# 039581 SORENSON CONSULTING	3/28/2019	\$375.00	Pre-employment Assessment - Lynda
Paid Chk# 039582 TIMESAVER OFF SITE SECRETARIAL	3/28/2019	\$215.00	City Council Minutes
Paid Chk# 039583 ULINE	3/28/2019	\$1,162.54	FD - Shelving
Paid Chk# 039584 WERNER IMPLEMENT CO., INC.	3/28/2019	\$39.35	PW - Fleet Main & Equip
<b>TOTAL</b>		<b>\$20,980.74</b>	
<b><u>DIRECT DEPOSIT</u></b>			
Paid Chk# 502382EBi-Weekly ACH	3/21/2019	\$31,296.54	
<b>TOTAL</b>		<b>\$31,296.54</b>	



# STAFF MEMORANDUM

<b>SUBJECT:</b>	One Day Gambling Permit for St. Nicholas Church
<b>MEETING DATE:</b>	March 28, 2019
<b>PREPARED BY:</b>	Lynda Jirak, Deputy Clerk
<b>REQUESTED ACTION:</b>	Adopt Resolution 19-13 Approving One Day Gambling Permit for St. Nicholas Church

## COMMUNITY VISION:

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## COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

**BACKGROUND:**

St. Nicholas Church is applying for a one day gambling permit for an event to be held on June 16, 2019 at 51 Church Street, Elko New Market, Minnesota.

**DISCUSSION:**

St. Nicholas Church is requesting City Council approval to hold a raffle at St. Nicholas Church on June 16, 2019. This is an annual fund raiser (chicken cookout) for St. Nicholas Church.

St. Nicholas Church has submitted all required documentation and associated fee.

Staff would recommend Council approval of the One Day Gambling Permit for St. Nicholas Church as it is a regular fund raiser and the City has received no complaints regarding the event.

Attachments:

- Resolution 19-13 Approving One Day Gambling Permit for St. Nicholas Church

CITY OF ELKO NEW MARKET  
SCOTT COUNTY, MINNESOTA

**RESOLUTION NO. 19-13**

**WHEREAS;** St. Nicholas Church, Elko New Market has submitted an application for a gambling permit for St. Nicholas Church, located at 51 Church St., Elko New Market, Minnesota, 55054;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Elko New Market, Minnesota, that a gambling permit be issued to St. Nicholas Church for the premises located at 51 Church St., Elko New Market, Minnesota 55054, for a One Day Gambling Permit for June 16, 2019. Types of gambling activity the organization will be conducting are Raffles. This is a religious non-profit organization and previous applications are on file with the Gambling Control Board.

**APPROVED AND ADOPTED** this 28<sup>th</sup> day of March, 2019.

**CITY OF ELKO NEW MARKET**

By: \_\_\_\_\_  
Joe Julius, Mayor

**ATTEST:**

\_\_\_\_\_  
Lynda Jirak, Deputy Clerk



# STAFF MEMORANDUM

<b>SUBJECT:</b>	One Day Temporary Liquor License
<b>MEETING DATE:</b>	March 28, 2019
<b>PREPARED BY:</b>	Lynda Jirak, Deputy Clerk
<b>REQUESTED ACTION:</b>	Adopt Resolution 19-14 Approving a One Day Temporary On-Sale Liquor License for St. Nicholas Church

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## COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

**BACKGROUND:**

The City Council is being asked to adopt Resolution 19-14 approving a One Day Temporary On-Sale Liquor License for St. Nicholas Church for an event to be held on June 16, 2019 at 51 Church Street, Elko New Market, Minnesota.

**DISCUSSION:**

Previously, St. Nicholas Church has been granted One Day Temporary Liquor Licenses allowing St. Nicholas Church to serve intoxicating liquor at church related events. There have been no violations and the City has received no complaints regarding the events serving intoxicating liquor at St. Nicholas Church.

St. Nicholas Church as submitted an application for a One Day Temporary On-Sale Liquor License to serve intoxicating liquor at their annual Chicken Cookout, along with associated fee.

**BUDGET IMPACT:**

Minimal

Attachments:

- Resolution 19-14 Approving a One Day Temporary On-Sale Liquor License

CITY OF ELKO NEW MARKET  
SCOTT COUNTY, MINNESOTA

**RESOLUTION NO. 19-14**

**WHEREAS;** St. Nicholas Church, Elko New Market has submitted an application for a One Day Temporary On-Sale liquor license to serve intoxicating liquor at St. Nicholas Church, located at 51 Church St., Elko New Market, Minnesota, 55054;

**WHEREAS;** St. Nicholas Church meets the requirements for issuance of the On-Sale Liquor License to serve intoxicating liquor under Minnesota Statute Chapter 340A;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Elko New Market, Minnesota, that a One Day Temporary On-Sale liquor license to serve intoxicating liquor be issued to St. Nicholas Church for the premises located at 51 Church St., Elko New Market, Minnesota 55054, for an event to be held on June 16, 2019 contingent upon the following:

1. Compliance with the provisions of Minnesota Statutes Chapter 340A in the sale of liquor; and
2. Providing proof of liquor liability insurance required by Minnesota Statutes § 340A.409 and attaching a certificate of insurance to the application listing the City of Elko New Market as an additional insured.

**APPROVED AND ADOPTED** this 28<sup>th</sup> day of March, 2019.

**CITY OF ELKO NEW MARKET**

By: \_\_\_\_\_  
Joe Julius, Mayor

**ATTEST:**

\_\_\_\_\_  
Lynda Jirak, Deputy Clerk



# STAFF MEMORANDUM

<b>SUBJECT:</b>	Proclamation Policy
<b>MEETING DATE:</b>	March 28, 2019
<b>PREPARED BY:</b>	Haley Sevening, Community Development/Administrative Intern
<b>REQUESTED ACTION:</b>	Provide Direction on the Proclamation Policy

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## COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

**BACKGROUND:**

Proclamations and Certificates of Recognition/Achievement are ceremonial documents issued to recognize exceptional events and individuals. Typically, proclamations are only issued for events or occasions that affect a broad group of people, are directly related to the city, and are not for profit. When proclamation criteria or guidelines are not met, many cities choose to instead issue a Certificate of Recognition or Certificate of Achievement.

Currently, the City of Elko New Market has no formal policy regarding proclamations. The process for making and approving a request is informal, not defined and based on past practice and circumstances.

**DISCUSSION:**

In an effort to clarify and streamline the proclamation request process, as well as eliminate approval bias, Staff developed the attached Draft Proclamation Policy for review. The proclamation policy outlines issuance criteria, guidelines for requests, and how requests should be made. It is intended to serve as a basis for discussion on the topic.

**BUDGET IMPACT:**

The budget impact for this item is the cost of City staff time.

**REQUESTED ACTION:**

The City Council is being asked to provide direction on how Staff should proceed with the Proclamation Policy.

**Attachments:**

City of Elko New Market Proclamation Policy - DRAFT

## City of Elko New Market Proclamation Policy

The City of Elko New Market welcomes the opportunity to recognize exceptional events, causes, and achievements within the City. All proclamation and certificates are ceremonial documents issued by the City Council. Please read the proclamation guidelines before making a request.

### Proclamation Guidelines

Proclamations are ceremonial documents signed by the Mayor and issued for:

- Public awareness
- Charitable fundraising campaigns
- Days that are noteworthy or historically significant
- Arts and cultural celebrations
- Special honors (on the recommendation of the Mayor)

Proclamations will not be issued for:

- Events or organizations with no direct relationship with the City
- Campaigns or events contrary to City policies
- Matters of political controversy, ideological or religious beliefs, or individual convictions
- Commercial purposes (i.e. opening of a new business, new product/professional service, business anniversaries, etc.)
- Deceased individuals, retirements, birthdays, weddings, wedding anniversaries, family reunions, or religious events or celebrations
- For profit businesses or organizations

Other guidelines for proclamation requests:

- Must be made by a City resident (or other person affiliated with an Elko New Market business or organization)
- Must affect a broad group of people (proclamations will not be issued for individuals)
- An organization does not have exclusive rights to the day, week or month of their proclamation
- More than one cause can be proclaimed simultaneously
- An organization may request only one proclamation annually
- Proclamations are not automatically renewed each year
  - Requests must be made on an annual basis
- Requests must be made at least 30 days in advance of the date the document is needed
  - Requests made less than 30 days in advance may not be approved by the date it is needed
- Should not be interpreted as an endorsement by either the Mayor or the City
- The City retains the right to modify, edit, or otherwise amend the proposed proclamation to meet its requirements, needs, or policy determinations
- The Mayor will review and make the final decision on whether a proclamation is placed on the Council agenda in accordance with these guidelines
- When proclamation criteria are not met, the City may issue Certificates of Recognition as an alternative
  - Includes, but is not limited to:
    - Outstanding public service

- Prestigious achievements within a service organization
- Distinguished academic achievements
- Accomplishments of local significance

How to make a proclamation request:

- All requests should be sent to the City (info@ci.enm.mn.us) with the subject line “PROCLAMATION/CERTIFICATE REQUEST”
- A proclamation request should include:
  - Requesters first and last name, street address, telephone number, and email address
  - A brief summary and/or background of the event or organization being proclaimed
  - Name and date(s) of the day, week, or month to be proclaimed
  - Draft text for the proclamation, including 4-6 “Whereas” clauses
  - A date when the proclamation is needed
- A certificate of recognition request should include:
  - Requesters first and last name, street address, telephone number, and email address
  - A brief summary and/or background of the event, organization, or person to be recognized
  - A date when the certificate is needed



# STAFF MEMORANDUM

<b>SUBJECT:</b>	Mobile Food Units
<b>MEETING DATE:</b>	March 28, 2018
<b>PREPARED BY:</b>	Haley Sevening, Community Development/Administrative Intern
<b>REQUESTED ACTION:</b>	Direction on Regulations Related to Mobile Food Units

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## COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

## **BACKGROUND:**

Mobile Food Units (MFUs), or 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 certain zoning and 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.

Currently, MFUs are regulated by both the state and the City. MFUs 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

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/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 City of Elko New Market currently regulates MFUs as 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 obtain an annual license. The current fee is \$65 per person. Transient Merchants must provide written permission from the property owner or property owner's agent for any property they will be operating on and can only operate between the hours of 7:00 A.M. and 9:00 P.M. Attached is a copy of the current ordinance regarding Peddlers, Solicitors, and Transient Merchants.

### **MOBILE FOOD UNIT REGULATION RESEARCH:**

Staff researched the MFU regulations of 15 area communities, the results of which are summarized in the attached “Mobile Food Unit Regulations – Summary Table.” 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 MFUs, 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 MFUs and provides best practices intended to balance the concerns of mobile vendors, restaurant owners, the community, and government.

#### **STAKEHOLDER INPUT:**

City staff has solicited input on the topic from the following stakeholder groups:

- Planning Commission (representing the community as a whole)
- Parks Commission (representing the community as a whole)
- Community & Civic Events Committee (CCEC) (representing various community events)
- Chamber of Commerce (representing the business community)
- Business Owners (of local food and beverage establishments)
- Police Department

Stakeholder groups were presented with questions relevant to their individual sets of interests and expertise and included the following:

- Should the City Council regulate MFUs?
- Should the regulations simply be stated in the City Code, or should a license be required?
- Should there be a City fee associated with licensing of MFUs?
- Should MFUs be allowed in commercial zoning districts?
- Should MFUs be allowed in industrial zoning districts?
- Should MFUs be allowed in residential zoning districts?
- Should MFUs be allowed on private property?
- Should MFUs be allowed on public property (City owned and public parks)?
- Should MFUs be allowed within public street rights-of-way (streets and sidewalks)?
- Should MFUs be limited to specific areas of the City?

- Should MFUs have restricted hours of operation?
- Should MFUs be required to be a minimum distance from existing restaurant establishments?
- Should MFUs be required to be a minimum distance from schools?
- Should MFUs be allowed to operate only in certain months of the year?
- Should MFUs be allowed to operate during special community events, such as church, school or community festivals?
- Should MFUs 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 the size of the MFU truck be regulated (maximum size)?
- Should signage, lighting, and/or noise associated with MFUs be regulated?
- Should the power supply options for MFUs be regulated?

Input received from the various stakeholder groups is summarized in the attached "Stakeholder Feedback – Food Trucks" document. The Planning Commission was the only stakeholder group to provide input on every question. While solicited, no input was received from business owners.

### **DISCUSSION:**

Staff is seeking Council direction on the approach that should be taken to regulate MFUs. Any potential regulations would be contained in the Business and License Regulations section of the City Code (Title 4). Specific questions are shown below and additional input is welcome.

- Should MFUs be regulated?
- If yes, which of the following approaches should be taken?
  - Regulation as a Transient Merchant with no change to the current code
  - Regulation as a Transient Merchant with regulations specific to MFUs
  - Regulation as a MFU without a license
  - Regulation as a MFU with a license

Should the Council feel MFUs be regulated in a way that requires an amendment to the City Code, staff will prepare a draft ordinance for consideration. A decision to not regulate would require an amendment exempting MFUs from the Peddlers, Solicitors, and Transient Merchants Ordinance.

### **BUDGET IMPACT:**

The budget impact for this item to date is the cost of staff time. Future budget implications will depend on how the Council decides to regulate MFUs.

### **Attachments:**

Peddlers, Solicitors, and Transient Merchants Ordinance

Mobile Food Unit Regulations – Summary Table

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

Stakeholder Feedback – Food Trucks

## Chapter 4

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

### 4-4-1: DEFINITIONS:

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**PEDDLER:** A person who goes from house to house, door to door, business to business, street to street, or any other type of place to place for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term hawker.

**PERSON:** Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

**REGULAR BUSINESS DAY:** Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

**SOLICITOR:** A person who goes from house to house, door to door, business to business, street to street, or any other type of place to place for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this definition if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed herein. The term shall mean the same as the term "canvasser".

**TRANSIENT MERCHANT:** 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. (Elko 2004 Code § 110.01)

### 4-4-2: EXEMPTIONS FROM PROVISIONS:

A. For the purpose of the requirements of this chapter, the terms "peddler", "solicitor", and "transient merchant" shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they

apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

- B. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multiperson bazaar or flea market, shall be exempt from the definitions of "peddlers", "solicitors", and "transient merchants", as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.
- C. Nothing in this chapter shall be interpreted to prohibit or restrict door to door advocacy. Persons engaging in door to door advocacy shall not be required to register as solicitors under section [4-4-11](#) of this chapter. The term "door to door advocacy" includes door to door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. (Elko 2004 Code § 110.02)
- D. Persons making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large shall be exempt from the definitions of "peddlers", "solicitors", and "transient merchants". (Ord. 132, 5-12-2016)

#### **4-4-3: COUNTY AND CITY LICENSES REQUIRED; EXEMPTIONS:**

- A. County License: No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county as required by Minnesota statutes chapter 329, as it may be amended from time to time, if the county issues a license for the activity.
- B. City License: Except as otherwise provided by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed but are still required to register pursuant to section [4-4-11](#) of this chapter.
- C. Exemptions And Limitations On Exemptions:
1. No license shall be required for any person to sell or attempt to sell or to take or attempt to take orders for any product grown, produced, cultivated, or raised on any farm.
  2. No license shall be required of any person going from house to house, door to door, business to business, street to street, or other type of place to place when the activity is for the purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, press, religion and the like; except, that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity. (Elko 2004 Code § 110.03)

#### **4-4-4: INELIGIBILITY FOR LICENSE:**

The following shall be grounds for denying a license under this chapter:

- A. The failure of the applicant to obtain and show proof of having obtained any required county license.
- B. The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
- C. The conviction of the applicant within the previous five (5) years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include, but not be limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- D. The revocation, within the past five (5) years, of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.
- E. The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three (3) complaints against the applicant with the better business bureau, the attorney general's office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) complaints filed against the applicant within the preceding five (5) years. (Elko 2004 Code § 110.04)

#### **4-4-5: APPLICATION FOR LICENSE:**

Application for a city license to conduct business as a peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the city council and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- A. Applicant's full legal name.
- B. All other names under which the applicant conducts business or to which the applicant officially answers.
- C. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).
- D. Full address of the applicant's permanent residence.

- E. Telephone number of the applicant's permanent residence.
- F. Full legal name of any and all business operations owned, managed or operated by the applicant, or for which the applicant is an employee or agent.
- G. Full address of the applicant's regular place of business (if any).
- H. Any and all business related telephone numbers of the applicant.
- I. The type of business for which the applicant is applying for a license.
- J. Whether the applicant is applying for an annual or daily license.
- K. The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days).
- L. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.
- M. A statement as to whether or not the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
- N. A list of the three (3) most recent locations where the applicant has conducted business as a peddler or transient merchant.
- O. Proof of any requested county license.
- P. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
- Q. A general description of the items to be sold or services to be provided.
- R. All additional information deemed necessary by the city council.
- S. The applicant's driver's license number or other acceptable form of identification.

T. The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle. (Elko 2004 Code § 110.03)

#### **4-4-6: LICENSE FEE:**

All applications for a license under this chapter shall be accompanied by the fee established by ordinance, as it may be amended from time to time. (Elko 2004 Code § 110.03)

#### **4-4-7: PROCEDURE FOR APPROVAL OR DENIAL OF LICENSE:**

Upon receipt of the completed application and payment of the license fee, the city clerk, within two (2) regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the city clerk determines that the application is incomplete, the city clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the city clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application, the city clerk must issue the license unless there exist grounds for denying the license under section [4-4-4](#) of this chapter, in which case, the clerk must deny the license. If the city clerk denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the city council. The city council shall hear the appeal within twenty (20) days of the date of the request. The decision of the city council following the public hearing can be appealed by petitioning the Minnesota court of appeals for a writ of certiorari. (Elko 2004 Code § 110.03)

#### **4-4-8: TERM OF LICENSE:**

An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license. (Elko 2004 Code § 110.03)

#### **4-4-9: NONTRANSFERABILITY OF LICENSE:**

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued. (Elko 2004 Code § 110.06)

#### **4-4-10: SUSPENSION OR REVOCATION OF LICENSE:**

A. Grounds For Suspension Or Revocation: Any license issued under this section may be suspended or revoked at the discretion of the city council for violation of any of the following:

1. Fraud, misrepresentation or incorrect statements on the application form.
2. Fraud, misrepresentation or false statements made during the course of the licensed activity.

3. Conviction of any offense for which granting of a license could have been denied under section [4-4-4](#) of this chapter.
  4. Violation of any provision of this chapter.
- B. Multiple Persons Under One License: The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.
- C. Notice: Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violation and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.
- D. Public Hearing: Upon receiving the notice provided in subsection C of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city clerk within ten (10) regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request. Within three (3) regular business days of the hearing, the city council shall notify the licensee of its decision.
- E. Emergency: If, in the discretion of the city council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the city council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in subsection C of this section.
- F. Appeals: Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court. (Elko 2004 Code § 110.05)

#### **4-4-11: REGISTRATION REQUIREMENTS:**

All solicitors, and any person exempt from the licensing requirements of this chapter, shall be required to register with the city. Persons engaging in door to door advocacy shall not be required to register. The term "door to door advocacy" includes door to door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable. (Elko 2004 Code § 110.07)

#### **4-4-12: PROHIBITED ACTIVITIES:**

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

- A. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- B. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right of way.
- C. Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.
- D. Conducting business before seven o'clock (7:00) A.M. or after nine o'clock (9:00) P.M.
- E. Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.
- F. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
- G. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive. (Elko 2004 Code § 110.08)

#### **4-4-13: UNINVITED PEDDLING AND SOLICITING:**

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches (4") long and four inches (4") wide with print of at least forty eight (48) point size stating "No Peddlers, Solicitors Or Transient Merchants", or "Peddlers, Solicitors, And Transient Merchants Prohibited", or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section. (Elko 2004 Code § 110.09)

**Mobile Food Unit Regulations Summary  
(Research 2019)**

City/Ordinance	License/Permit	Application Requirements	Exceptions	Conditions	Suspension/Revocation	Penalty	Notes
<a href="#">Arden Hills</a>	Temporary (7 days or less, \$30) or Annual (8 days or more, \$100)	<a href="#">See application.</a>	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.	
<a href="#">Baxter</a>	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.	
<a href="#">Brainerd</a>	\$500/year	<a href="#">See application.</a>	None	Boundaries/Permitted Hours of Operations, Permitted Uses.			Identified districts in which food trucks can operate.
<a href="#">Delano</a>	\$20/day	<a href="#">See application.</a>	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.
<a href="#">Eden Prairie</a>	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..."
<a href="#">Elk River</a>	Annual \$100	<a href="#">See application.</a>	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.
<a href="#">Jordan</a>	Annual (\$200) or one-day (\$25).	<a href="#">See application.</a>	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.	
<a href="#">Lakeville</a>	Annual (\$150) or one-day (\$50).	<a href="#">See application.</a>	Allowed only in conjunction with community events.	Performance Standards.	N/A	N/A	
<a href="#">New Prague</a>	N/A	N/A	N/A	N/A	N/A	N/A	Made a conscious decision not to require any permits or licenses in order to better support economic development.
<a href="#">Prior Lake</a>	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.
<a href="#">Rothsay</a>	Annual \$50	<a href="#">See application.</a>	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.	
<a href="#">Shakopee</a>	Temporary (10 days between March 15-Nov 15, FREE) and annual (April 1-Oct 31, \$50).	<a href="#">See application.</a>	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.<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 CFSM 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

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# 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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## Stakeholder Feedback – Food Trucks

	Planning Commission	Parks Commission	CCEC	Chamber of Commerce	Business Owners	Police Department
Regulate MFUs?	Yes	-	Yes	No	-	-
Require license?	Yes	-	Yes	-	-	Yes
Commercial zoning districts?	Yes	-	-	-	-	-
Industrial zoning districts?	Yes	-	-	-	-	-
Residential zoning districts?	No	-	-	-	-	-
Private property?	Yes	-	Yes (even during events)	-	-	Yes
Public property (City owned/public parks)?	Yes	Yes	Not during events	-	-	Yes
Public rights-of-way (streets/sidewalks)?	No	Yes	-	-	-	-
Limited to specific areas of the City?	No	-	-	-	-	-
Restricted hours of operation?	7am-12am	-	-	-	-	Yes
Minimum distance from restaurants?	No	-	-	-	-	-
Minimum distance from schools?	No	-	-	-	-	-
Certain months of the year?	No	-	-	-	-	-
During community events?	Yes	No	No (unless invited)	-	-	-
During farmer's markets?	Yes	Yes	-	-	-	-
Exception for Ice Cream trucks?	Yes	-	-	-	-	-
Catering?	Yes	Yes	-	-	-	-
Proof of state license?	Yes	-	-	-	-	-
Proof of insurance?	Yes	-	-	-	-	-
Background checks?	No	-	-	-	-	-
City fee associated with license?	Yes (minimal)	-	-	-	-	-
Size of MFU?	No	-	-	-	-	Yes
Signage, lighting, & noise associated with MFU?	No	-	-	-	-	Yes
Power supply options?	No	-	-	-	-	-

## **Additional Comments from Stakeholders**

### **Planning Commission (1/29)**

- Supports the development of a Mobile Food Unit ordinance that requires a license, but recommends minimal regulations
- Allow catering at private events, but define what “private events” are
- Want to ensure we can effectively enforce new regulations
  - “Don’t create new rules if we can’t enforce them”
- Youth fundraising activities should be exempt from licensing requirements under Peddlers, Solicitors, and Transient Merchants ordinance
  - EX: Girl Scouts and Boy Scouts

### **Parks Commission (2/19)**

- Generally supports allowing MFUs to operate in parks at any time, but have concerns about having MFUs parked in residential districts all day
  - Recommends that MFUs be required to get permission from the Parks Director before operating in public parks
- Should be allowed in conjunction with private events at the Wagner Park Shelter
- Do not support MFUs at community/fundraising events

### **Civic and Community Events Committee (2/19)**

- Recommend that MFUs not be allowed on public property during community events
  - Supportive of allowing MFUs to operate on private property during community events
- See the benefit in having MFUs at community events, but are worried about competition with local non-profits and vendors
  - Supportive of conditions that attempt to minimize competition
    - MFUs must be invited by event committees/hosts
    - MFUs must agree to “give back” a percentage of their revenue to non-profit organizations attempting to raise money at the event
    - MFUs invited as part of an event should be exempt from licensing fee
- Could plan/develop a food truck festival

### **Chamber of Commerce (3/4)**

- A majority of Elko New Market Chamber of Commerce Board of Directors members support no regulation of mobile food units by the City Council at this time

### **Business Owners (3/11)**

- No input received

### **Police Department (3/11)**

- Recommends requiring MFUs to be licensed and giving each MFU a copy of the rules/requirements along with license
- Only allow MFUs on public property if they provide specific dates/times of operation
- Restrict hours of operations to match the noise ordinance
- Require MFUs to have trash receptacles for consumers
- No selling tobacco products or alcohol
- Be aware of parking considerations/current regulations
- Clearly lay out penalties for non-compliance
  - Keep in mind most associated issues will be zoning/code violation and not a criminal offense