



PLANNING COMMISSION STAFF REPORT

TO: Frisco Planning Commission
FROM: Katie Kent, Planner
RE: Outdoor Commercial Establishments – Working Group Update
DATE: May 3, 2018

Summary:

The Town of Frisco has initiated an update to the Outdoor Commercial Establishment (OCE) regulations (§180-5.2.4 of the Unified Development Code). Amendments to the OCE regulations are being reviewed at this time in order to confirm the goals of the OCE regulations, change unclear provisions, improve usability, and to address citizen concerns regarding the size of mobile vendors and locations permitted. To assist with the update, Staff has established a working group consisting of seven (7) citizens who represent businesses throughout the Town of Frisco and one (1) food truck operator. This memo serves as an update of discussions held by the OCE Working Group on March 20, 2018. We would like to engage the Planning Commissioners in this discussion for your input and feedback on the ideas being contemplated.

This memo is followed by two (2) attachments to support the discussion:

Attachment 1, Existing Outdoor Commercial Establishment regulations
Attachment 2, “Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending” by
Rodney Arroyo, AICP and Jill Bahm, AICP

The working group held their first meeting on March 20, 2018. At this meeting, Staff provided an overview of the existing regulations and highlighted sections which lead to citizen complaints and/or ambiguity. These include:

Section 5.2.4C, Permitted Uses:

- 1. Outdoor commercial establishment permitted uses include and are limited to the following: mobile food vendors, including carts and trucks, mobile vendors of merchandise, sale of merchandise, such as for sidewalk sales and other special events, seasonal farmer’s markets and other similar fresh food sales, temporary art and craft fairs and festivals, seasonal holiday sales, and community events.*
- 2. Mobile vendors are defined as mobile carts and trucks that are under independent ownership from an established business located within a building in Frisco.*

Section 5.2.4D, Permit Review Criteria:

- 10. Mobile Vendors. In addition to meeting all other requirements of this section, mobile vendor structure or equipment must provide for trash disposal and remove trash daily. Mobile vendor structure or equipment may not exceed 100 square feet in area.*

Staff noted that Farmers' Markets and Produces Stands are already defined as uses outlined in Article 5, Uniform Development Code. These should not be included in the OCE discussions.

Section 5.2.2, Farmers' Markets

This use may sell food, food products, arts, and crafts prepared on- or off-site, as long as its principal ingredients or components are grown on-site or within Colorado.

Section 5.2.7, Produce Stands

The majority of products sold at the stand shall have been grown, raised, or produced on the property where the stand is located. Only one stand is permitted on a property.

Regardless of what regulations are established, property owner consent will be required. Additionally, all applicable regulations from other entities will apply including, but not limited to, Summit Fire, Building Code, Environmental Health and applicable State permitting.

Potential uses which would currently be considered under OCEs include:

- Outdoor seating for restaurant (on premise)
- Outdoor display of merchandise (on premise)
- Mobile commercial uses through Town events
- Musicians
- Youth Business Operations
- Tent Sales (off premise)
- Transient Vendors (hot dog cart / ice cream truck)
- Stationary Vendor (parked in one location)
 - Popcorn cart
 - Food truck

The Working Group unanimously agreed to exempt the following uses from permitting as the regulations are amended:

- Outdoor seating for restaurant (on premise)
- Mobile commercial uses through Town events
- Musicians
- Youth Business Operations (bake sales, lemonade stands)

The Working Group agreed that Outdoor Display of Merchandise, Transient Vendors, Stationary Vendors and Tent Sales needed further discussion and refined regulations. It was agreed that regulations should differ for these use categories based on where in the Town they may be located. This is because different parts of town have different physical characteristics, traffic patterns, parking options, amount of open space, and "flow". For example, Main Street has little private property in front of buildings, minimal on-site parking, and a tight arrangement of buildings side by side, versus the Summit Boulevard corridor which is more open and has larger expanses of on-premise parking.

Areas of Town: Considerations and Suggestions of the Working Group

Main Street

It was suggested that Main Street be split between east and west Main Street due to larger parking lots and more space along West Main Street. The Working Group strongly felt that the same regulations should apply to all of Main Street, designating Main Street (between Granite Street and Galena Street Alley) to be one area for regulations. It was also recommended that with the high level of activity on Main Street that the addition of transient vendors or tents might be too chaotic or cluttered (but could be allowed with a previously stated exempt use).

Frisco PRA

The Frisco Peninsula Recreation Area (PRA) was acknowledged as a location that should allow flexibility to regulated transient vendors due to the location having a lack of competition with restaurants and retail businesses. For example, this might include food trucks or other food services, upon approval by the town to locate on public property.

Frisco Marina

The Frisco Marina was discussed and further feedback will be needed. Some group members were in support of OCEs being permitted at the Marina as they may add to the Marina ambiance, bring more people into the downtown area, and provide more variety to the food currently served on the property. Other attendees noted the difficulties of transient vendors being permitted in close proximity to Main Street as they might compete with the restaurants and retailers already established in the area. The Marina staff would like the flexibility to have mobile vendors in the future.

Summit Boulevard / Basecamp

An area of discussion was whether the Summit Boulevard and Basecamp areas should have the same or different set of regulations. Whereas the Basecamp property and Summit County Transit Center may have more land for transient vendors, concerns were raised by some that they should share the same set of regulations to keep the regulations simpler and because the character differences are not that great. It was agreed that transient vendors should be allowed on Summit Boulevard but more thought should be given as to how to regulate. Regulations could include distances to established restaurants and/or residential units.

Regulating OCEs

Staff noted various factors that, as a part of this effort, will need to be discussed and outlined in the regulations. These include:

- Duration of Time per Year
- Hours of Operation
- Number of OCEs per Block
- Number of OCEs per Property
- Number of OCEs within certain Distance
- Signage
- Lighting
- Noise
- Utilities Required
- Foundation/Platform
- Restroom Access
- Refuse/Recycling
- Seating
- Parking
- Cooking Type/Odors
- Permit Fee
- Permit Expiration

Additional Input from Working Group

- Insurance is important and the Town should ensure that any transient vendor has an adequate policy.

- Regarding size limitations. The working group began realizing that what is more important than the size of equipment, is how many parking spaces the OCE utilizes. It was agreed that transient vendors should not take up any parking spaces which are required for other businesses on the property.
- Property owner control. Members of the group discussed that the property owner should be able to receive a transient and/or stationary vendor permit for a portion of their property and then they can control who goes in that location on their property.
- The Working Group suggested that there be a minimum amount of time that a transient vendor and/or stationary vendor can be in a location. This ensures they are committed to their permit and will not take away from other vendors who may be more serious. For example, a vendor may be permitted for every Saturday in a specific location from April – June. If the vendor is not present, their permit should be voided. It should be noted that presently there is only one vendor allowed per block on East Main Street. This means that when one vendor gains “control” of that block, even if they only are operating sporadically, no other vendor can locate on that block.
- Regarding tents. The Working Group discussed tents and that there is a difference between a tent with sides versus no sides. More discussions and feedback on tents for on-premise sales and off-premise vendors is needed. Preliminary feedback by the Working Group is that if it is a tent sale on premise for goods sold on site, and does not take away required parking spaces, then it should be allowed. Time limitations may need to be enacted.

Suggested Action:

Staff is requesting the Planning Commission provide feedback on the ideas presented thus far. Staff would also like to have the Commission’s opinion about how OCEs should be considered in the town. What is our goal in regulating OCEs? Do we like the vitality they can bring? Do they cause too much activity or clutter? What character should we strive for?

Attachments: Existing Outdoor Commercial Establishment regulations
 “Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending” by
 Rodney Arroyo, AICP and Jill Bahm, AICP

5.2.4. OUTDOOR COMMERCIAL ESTABLISHMENTS

A. Purpose

Outdoor commercial establishments allow a transient or mobile commercial use and/or structure not otherwise allowed under the Town's Zoning Chapter to locate within the Town on any non-residential property with the owner's consent. This section is intended to allow outdoor commercial establishments which contribute to the pedestrian and small mountain town atmosphere of the Town by permitting certain outdoor commercial uses.

B. Permit Approval

It shall be unlawful to construct, erect, or use, or to cause to be constructed, erected, changed, or used, in any zoning district of the Town, any outdoor commercial structure, or equipment, or to engage in an outdoor commercial use, unless and until an outdoor commercial establishment permit has been approved by the Community Development Department as provided in this Section 5.2.4. At the discretion of the Community Development Department, any application for an outdoor commercial establishment permit may be referred to the Planning Commission for approval.

C. Permitted Uses

1. Outdoor commercial establishment permitted uses include and are limited to the following: mobile food vendors, including carts and trucks, mobile vendors of merchandise, sale of merchandise, such as for sidewalk sales and other special events, seasonal farmer's markets and other similar fresh food sales, temporary art and craft fairs and festivals, seasonal holiday sales, and community events.
2. Mobile vendors are defined as mobile carts and trucks that are under independent ownership from an established business located within a building in Frisco.
3. The following criteria apply to mobile vendors along Main Street between Madison Avenue and Summit Boulevard:
 - a. There shall be no more than one mobile vendor per each Main Street block. For purposes of this section, a Main Street block is defined as both sides of Main Street between any two intervening cross streets. Issuance of an outdoor commercial establishment license for such use shall be on a first come first serve basis, based upon the date of a complete application for the use.
 - b. All Mobile Vendor structures or equipment shall not utilize temporary tents, and each outdoor commercial establishment must be able to secure the structure or equipment utilized each night while not in use.
 - c. All outdoor commercial use that includes the sale of food shall remove any food item and trash from the structure or equipment each night while not in use.
 - d. No Mobile Vendor may be in operation and open for business during more than 180 days in any calendar year.
4. Exemption: Notwithstanding any of the forgoing, any Town-sponsored outdoor community-wide events and festivals, held on Town-controlled property or on private property with permission of the property owner, are exempt from the regulations under this section.

D. Permit Review Criteria

The Community Development Department shall approve an application if all of the foregoing and following applicable criteria and specific regulations are met or may deny an application for failure to meet the foregoing or following applicable criteria and specific regulations, or may impose such conditions of approval as may be necessary for approval of an outdoor commercial establishment permit to ensure that all of the following applicable criteria and specific regulations are met:

1. The allowance of such outdoor commercial establishment will not be detrimental to the public health, safety, or general welfare, and the outdoor commercial establishment is compatible with the purpose and intent of this Chapter and the specific zoning district in which the outdoor commercial establishment is proposed.
2. The outdoor commercial establishment is compatible in intensity of use, characteristics, and appearance with the existing land uses in the immediate vicinity of the proposed location. The use, value, and qualities of the neighborhood surrounding the proposed location will not be adversely affected by the outdoor commercial establishment or activities within it. Factors such as location, access, traffic generation, noise, lighting, parking, dust control, hours of operation, and structure, height, size, and appearance will be considered.
3. The applicant shall provide as part of their application written consent from the property owner. If the outdoor commercial establishment is to be located partially or entirely on Town property, approval of the Town Council is required.
4. Adequate parking is to be provided to serve the outdoor commercial establishment. The outdoor commercial establishment must not be located on or displace required parking spaces, including off-site spaces, seasonal snow storage areas (from October 31st to April 15th) or loading areas of the principal permitted uses on the site. Required parking will be calculated based on the Town's parking requirements in Section 6.13 of this Chapter. Parking required for the outdoor commercial establishment shall be paved unless the applicant provides a method to minimize air pollution or dust on the property and on adjacent properties.
5. No food or drink may be sold except in accordance with the standards and written approval of the Summit County Environmental Health Department, such approval must be submitted at time of application to the Community Development Department
6. All lighting proposed for the outdoor commercial establishment shall meet the requirements of Section 6.16, Outdoor Lighting. No spot lights shall be permitted.
7. It shall be unlawful for any outdoor commercial establishment merchandise or other promotional materials to hang from any building facade or door or from any foliage, and no outdoor commercial establishment shall block any window, door, or architectural feature of a building.
8. Outdoor commercial establishments shall not be located within the right-of-way of any Town street or alley without the approval of the Town Council. Outdoor commercial establishments, upon approval from the Community Development Department and Public Works Department, may be allowed within the Town's three foot sidewalk easement adjacent to both sides of the Main Street right-of-way as long as the outdoor commercial establishment does not significantly impede pedestrian traffic, snow removal, or general maintenance activities.
9. No outdoor commercial establishment will be approved in a residential zoning district under this section of the Town Code or in an area where exclusively residential uses exist.
10. Mobile Vendors. In addition to meeting all other requirements of this section, mobile vendor structure or equipment must provide for trash disposal and remove trash daily. Mobile vendor structure or equipment may not exceed 100 square feet in area.
11. Formal seating areas are not permitted for any mobile vendor structure or equipment.
12. An outdoor commercial establishment is limited to a maximum of ten square feet of signage, including any banners, and such signage may not be affixed to any building. No other items intended to draw attention to the outdoor commercial establishment are permitted (such as balloons, flags, etc.). All other requirements of Section 6.19 as amended from time to time, shall apply.

13. For outdoor commercial establishments on Town-controlled property, at the discretion of the Town Council, financial security may be required to ensure compliance with any condition of approval and/or to ensure that the subject property is restored to its original use and condition.
14. Before an outdoor commercial establishment involving the sale of merchandise or food may begin, the applicant's business must have a valid business license from the Town Clerk's office.

E. Application

Application for an outdoor commercial establishment permit shall include:

1. A general development application form obtained from the Community Development Department.
2. A plan showing property lines, existing and proposed features relevant to the outdoor commercial establishment, the location of the outdoor commercial establishment in relationship to uses and structures in the immediate vicinity, setbacks from property lines, fencing or screening, lighting, trash receptacles, sign locations, parking, and anticipated circulation patterns. An application for an outdoor commercial establishment shall include drawings or pictures of any structure or equipment including elevations and a description of colors and materials proposed.
3. A letter of intent explaining the nature of the outdoor commercial establishment including but not limited to the time period requested, hours of operation.
4. Such other information as may be deemed necessary by the Community Development Department for the purposes of evaluating the application.
5. Payment of the applicable permit fee and security deposit, if any. If determined necessary by the Community Development Department or Town Council, financial security may be required to ensure compliance with any and all conditions of approval and/or to restore the subject property to its original use and condition.

F. No Vesting of Outdoor Commercial Establishments

A development application for and an approval of an outdoor commercial establishment shall not constitute nor be interpreted by any property owner, applicant or court as a site specific development plan entitled to vesting under Article 68 of Title 24 of the Colorado Revised Statutes. Outdoor commercial establishments shall be considered transitory at all times and shall not vest. The failure of an applicant to adhere to any condition of approval for an outdoor commercial establishment shall result in the immediate forfeiture of approval and such establishment and the use of any accompanying structure or equipment shall immediately cease and may be subject to abatement as a public nuisance as provided for in the Code of the Town of Frisco.

G. Appeals

Any appeal of the Community Development Department decision regarding an outdoor commercial establishment permit shall be made in accordance with Section 2.7.1 of this Chapter.

H. Expiration of Approval

If a holder of an approved outdoor commercial establishment fails to renew the Town's annual business license within six months of receipt of said license renewal, the previously approved outdoor commercial establishment permit shall be deemed to be expired. An application for a new outdoor commercial establishment permit meeting all of the standards of this Section 5.2.4 will be required.

I. Approval

Any change in use or location of an approved outdoor commercial establishment shall require a new outdoor commercial establishment application be submitted to the Community Development Department for review.

J. Nonconformity

Any existing outdoor commercial establishment approved prior to the adoption of the current requirements may continue to operate under the conditions of approval.

K. Fire Extinguisher Requirement

All mobile vendors with any heat source, and any mobile vendor using electricity for the purposes of operating equipment are required to have an approved fire extinguisher with a classification of 2-A:101B:C at the location of the outdoor commercial establishment.

Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending

By Rodney Arroyo, AICP, and Jill Bahm, AICP

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



Jill Bahm/Clear zoning

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

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

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

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

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

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About the Authors

Rodney Arroyo, AICP, is president of Clearzoning, Inc. He holds a Master of City Planning degree from Georgia Tech and has more than 30 years’ expertise in planning and transportation. His experience includes master plans, zoning ordinances, form-based codes, corridor studies, and access management plans. Arroyo also serves as an expert witness in planning and zoning issues, is a national and state planning award winner, and serves as an adjunct professor for Wayne State University’s graduate urban planning program.

Jill Bahm, AICP, is a principal planner with Clearzoning, Inc. She holds a Master of Urban and Regional Planning degree and has worked in both the public and private sectors as a downtown development authority director, city planner, and real estate marketing professional. Bahm’s professional interests include economic development, recreation planning, historic preservation, community participation, and organizational development.

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

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

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

WHAT IS MOBILE FOOD VENDING?

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

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

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

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

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

THE PROS AND CONS OF MOBILE FOOD VENDING

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

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

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

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

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

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

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

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

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

ADDRESSING AREAS OF CONCERN THROUGH ZONING

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

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

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

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

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

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



Russ Herschler

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

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

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

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

Location

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

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

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

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

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

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



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

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

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

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

Duration

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

Goods Available for Sale

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

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

Number of Units in One Location

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

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

Trash

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

Hours of Operation

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

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

Licenses and Permits

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

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

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

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

Site Amenities

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



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

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

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

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

Parking and Circulation

Given the mobility of these vendors, they by necessity are typically located in parking areas. Whether in public spaces or a private parking lot, it is important to ensure sufficient parking for existing uses to prevent an undue burden on bricks-and-mortar establishments. For food

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table water, requiring mobile food vendors to store their water in an internal tank. The city also requires vendors to be located within 50 feet of an entrance of a primary building, and drive-through service is expressly prohibited (§3.02.01.A(20)). King County, Washington, requires that all mobile food vending in the county be located within 200 feet of a usable restroom (§5.34).

Signage

Some communities use their existing sign regulations, but others tailor standards for mobile units. In Michigan, both Grand Blanc Township (§7.4.9.F) and Kalamazoo (§§25-63–68) allow one sign on the mobile vending unit itself, but do not allow any other signage. This is fairly common. In many cases, the truck itself essentially functions as one big sign with colorful graphics. Additionally, many mobile food vendors now use social media to get out the word regarding the time and place they will set up shop, potentially reducing the need for additional signage beyond that on the unit itself.

Lighting

Lighting is not as commonly addressed as other issues, especially if a mobile food vending unit is located in an existing developed area, but it is likely presumed that other applicable lighting requirements appropriate to the location are to be followed. Consider adjacent uses and the impact of light trespass and glare. For example, Grand Blanc Township requires mobile food vending units to be lit with available site lighting. No additional exterior lighting is allowed unless permitted by the zoning board of appeals upon finding that proposed exterior lighting mounted to the mobile vending unit will not spill over on to adjacent residential uses as measured at the property line (§7.4.9.F.10).

TESTING, FOLLOW-UP, AND ENFORCEMENT

One of the nice things about mobile food vending is that it is really easy for a community to put a toe in the water and test the impact of regulations on mobile food vendors, other community businesses, and the public, and to adjust the regulations

as appropriate. The Metropolitan Government of Nashville-Davidson County, Tennessee, initiated a test phase beginning April 2012 that will provide evaluative data for a successful mobile food vendor program. The program will initially be operated under a temporary permit issued by the Metro Public Works Permit Office for two specified zones, the downtown core and outside of it. Oakland, California, has a pilot program for “Food Vending Group Sites,” defined as “the stationary operation of three (3) or more ‘mobile food vendors’ clustered together on a single private property site, public property site, or within a specific section of public right-of-way” (§5.51).

Before embarking on extensive zoning rewrites, review the suggested considerations with the community to anticipate and plan for appropriate ways to incorporate this use in a reasonable way. Mobile food vending is on the rise all over the country, from urban sites to the suburbs. When regulated appropriately, mobile food vending can bring real benefits to a community, including jobs, new businesses, fresh food, and vitality.

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