



Land Use, Sustainability & Resilience Committee Memorandum

City of Arts & Innovation

TO: LAND USE, SUSTAINABILITY & RESILIENCE COMMITTEE MEMBERS **DATE: SEPTEMBER 13, 2021**

FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT **WARDS: ALL**

SUBJECT: REGULATIONS REGARDING MOBILE FOOD TRUCKS

ISSUE:

Review the attached proposed ordinance regarding regulations of mobile food trucks.

RECOMMENDATION:

That the Land Use, Sustainability & Resilience Committee:

1. Review the attached proposed ordinance regarding regulations of mobile food trucks and make a recommendation for changes to be presented to the City Council.

BACKGROUND:

On May 27, 2021, the Land Use, Sustainability & Resilience Committee reviewed and considered four options to amend the Riverside Municipal Code Chapter 5.36 regarding mobile food trucks. Following discussion, the Committee unanimously agreed to: (1) direct staff to draft an ordinance amending Riverside Municipal Code Chapter 5.36 to allow mobile food trucks to operate in compliance with State and County guidelines; (2) return a draft of the ordinance to this Committee in September 2021; and (3) engage in public and stakeholder outreach.

Introduction

Mobile food trucks are motorized vehicles that function as transportable retail food facilities for the sale of food and beverages to the public. Food trucks have relatively low startup costs and provide economic opportunities for entrepreneurial individuals with little capital. Mobile food trucks are health-regulated businesses subject to state and local health standards. Mobile food trucks operating in Riverside County are extensively regulated by the Department of Environmental Health. Owners must obtain a County health permit, pass health inspections, and display a certification sticker prominently on the truck. Furthermore, mobile food trucks operating within the Riverside City limits may currently only serve pre-packaged food and must also obtain a City business tax certificate.

Food truck businesses have been on the rise in recent years. The number of food truck establishments in 2018 was 5,970, nearly double the 3,281 in 2013. California accounts for the most food trucks in the nation with sales in 2017 of \$276.1 million. (“Fast-Growing Food Truck Industry Can Operate Amid COVID-19 Social Distancing Rules, No Indoor Seating Orders”,

United States Census Bureau, September 2, 2020, found online at <https://www.census.gov/library/stories/2020/09/food-trucks-one-way-to-eat-out-during-pandemic.html>.)

State Law

Within the public right-of-way, mobile food vending is protected by California Vehicle Code Section 22455, and the City is able to adopt requirements to regulate the time, place, and manner of mobile food truck operations as needed in the interest of public health and safety.

As to health and sanitation standards, the California Retail Food Code, a division of the Health & Safety Code (H&S), regulates all retail food facilities statewide. While it has general rules applicable to all food sellers, it also contains food-truck specific rules. The California Retail Food Code is extensive and contains detailed regulations on the training and certification of food handlers; the physical layout of food trucks including materials that can be used; cleaning, storage and resupply procedures; temperatures and handling instructions for various foods; and even where the spare tires must be kept.

As an example, the Food Code specifies the requisite amount of aisle space within the cooking portion of the truck (H&S 114321) and mandates that utensils be secured, so they are not thrown about while the truck is moving (H&S 114323(b)(1)). Food trucks with cooked food must be equipped with both ware-washing and handwashing sinks (H&S 114311) and any deep fryers must be sealed using a positive air pressure lid (H&S 114323(b)(2)). The law also requires all mobile food facilities that are stopped and conducting business for more than one hour to operate within 200 feet of an approved and readily available toilet and handwashing facility (H&S 114315).

The state legislature intended to occupy the health and sanitation field, meaning that compliance with the California Retail Food Code is mandatory throughout the state, although local jurisdictions may add additional requirements that are not in conflict with state law. For example, Riverside County has added the “A”, “B”, “C” grading placard for food trucks, just like it is seen in restaurants.

County of Riverside

There are five categories of a Mobile Food Facility (MFF) that can be permitted:

1. **Produce Vehicle:** A MFF limited to the sale of whole, uncut produce obtained from an approved source.
2. **Prepackaged Food Pushcart:** A MFF limited to the sale of 100% prepackaged foods from non-motorized vehicles, which are obtained from an approved source.
3. **Prepackaged Food Vehicle:** A MFF limited to the sale of 100% prepackaged food from a motorized vehicle (e.g., ice cream trucks).
4. **Non-Prepackaged Food Vehicle:** A MFF that engages in limited food preparation (e.g., shaved ice cart or hot dog cart).
5. **Mobile Food Preparation Unit:** A MFF that engages in full food preparation (e.g., food trucks).

(Traditional Sidewalk Vendors are comprised of MFF categories 1, 2 and 4.)

The County of Riverside must approve the physical design and layout of any proposed MFF. (See attachment 7 - Mobile Food Facility Construction and Plan Approval Guidelines.) In addition, any

MFF that is occupied and has 110-volt electrical, plumbing, a gas appliance and equipment, or a mechanical generator or compressor must have a certification insignia issued by the California Department of Housing and Community Development (HCD).¹

Riverside County Environmental Health issues numbered permits to approved MFF's. The permits are good for one year. MFF categories 1-3 (above) are inspected once per year; categories 4 and 5 are inspected twice per year. MFF's that pass all of the requirements are issued a numbered Environmental Health Decal, which must be displayed on the outside of the MFF. By doing so, inspectors and the public can quickly determine that a particular MFF is approved by the County. (Please see attachment 8 - Current List of Permitted Mobile Food Facilities.) Prior to the issuance of a new permit, or renewal of a permit, the MFF must provide:

1. Commissary agreement letter. (Commissaries are approved locations where MFF's are stored, cleaned, and resupplied with food and water. There are currently three commissaries within the Riverside City limits)
2. Commissary schedule.
3. Written operational procedures detailing where food will be purchased, where it will be prepared, how it will be prepared, sanitizing procedures. (See attachment 9 – Written Operational Procedures)
4. Current route sheets for MFF's that operate in multiple locations.
5. Proof of annual water tank testing.
6. Proof that all water has been supplied solely from an approved commissary.
7. Approved plan for waste grease and trash disposal.
8. Proof of issuance of food manager and food handler certifications.
9. A list of food items to be sold from the MFF.
10. Proof of valid driver's licenses for all proposed drivers and current vehicle registration.
11. Proof of general liability insurance naming the County as an "additional insured". (Category 5 only.)

(See attachment 10 - Application to Operate a Mobile Food Facility)

Riverside Municipal Code

Riverside Municipal Code Section 5.36.030 permits mobile food merchants, which are defined as "any individual that operates or assists in the operation of a vending vehicle in the sale, display, solicitation or offer for sale, barter, exchange, gift or otherwise of foodstuffs from a vending vehicle." However, pursuant to Section 5.36.070, "[n]o mobile food merchant shall sell, display, solicit, barter, gift, or exchange or otherwise, any item, other than pre-packaged food from a vending vehicle within the corporate limits of the City of Riverside as set forth in this Code." This restricts food trucks to the Category 3 MFF's (above.) That restriction was based upon the following findings in 2011, as listed in Section 5.36.010:

- A. Mobile food vending has the potential to pose special dangers to the public health, safety

¹ This provision "shall not apply to any mobile food merchant who has received written consent of the school principal or other authorized school official to park, stop or stand for the purpose of vending when such authorization does not interfere with public vehicle traffic or pose a traffic safety hazard to school children. Any such written authorization shall be kept and maintained with the mobile merchant at all times for inspection." (RMC 5.36.080)

and welfare of residents of the City.

- B. The act of looking for prospective buyers while operating a vending vehicle makes the operator less attentive to pedestrian and vehicular traffic. When done on public roadways, this poses obvious traffic and safety risks to the public which the City seeks to prevent.
- C. Vending vehicles parked in one location for more than ten minutes at a time further exacerbate traffic problems in highly congested areas and obstructs sidewalks. This also creates safety issues for children who may run across public roadways attempting to access the vendors. This is especially true of school sites when children are coming to and going from school.
- D. Mobile food vendors who fail to park their vending vehicles correctly during a transaction attract prospective buyers onto public roadways, creating further traffic and public safety hazards.
- E. The sale of non-food items presents special regulatory challenges which may affect the health, safety and welfare of minors who frequent this type of vendor, often without adult supervision.
- F. The City has an important and substantial public interest in providing regulations to prevent safety, traffic, and health hazards, as well as to preserve the peace, safety and welfare of the community.

Reasons Commonly Given for Support

Reasons cited for allowing mobile food vending include the following:

- They provide an opportunity to increase jobs and businesses;
- They offer opportunities to provide food choices where zoning precludes restaurants;
- They can increase activity in struggling business districts;
- They signal to other potential businesses that the community is adapting to the evolving economy and supporting entrepreneurship; and
- They are a way for restaurateurs to test the local market for future brick-and-mortar facilities.

(Rodney Arroyo, AICP, and Jill Bahm, AICP, “Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending”, Zoning Practice, September 2013, found online on pages 9-14 at <https://www.friscogov.com/wp-content/uploads/2017/09/Staff-Report-4.pdf>)

Supporters of mobile food trucks cite the success of traditional food vending trucks that service locations such as construction sites and factories where there is limited access to restaurants. In a more modern context, food trucks often offer a broader range of innovative dining choices and connect customers through social media platforms. Food trucks can be more affordable for first-time and startup entrepreneurs than brick-and-mortar restaurants. They are particularly popular with young, digitally savvy consumers. The close connection between customers and owners means instant insight into menu and food preferences.

The COVID-19 (coronavirus) outbreak significantly reduced foot traffic in business district areas. Consequently, in some communities, food truck operators innovated by targeting residential neighborhoods, essential businesses and rest stops. Some food trucks have partnered with hospitals and factories to park at their lots. (“Food Trucks Industry in the US - Market Research Report”, IBIS World, September 23, 2020, found online at <https://www.ibisworld.com/united->

[states/market-research-reports/food-trucks-industry/.](#))

Reasons Commonly Given for Opposition

There are often complaints in communities throughout the country where vending trucks frequent popular areas with well-established brick-and-mortar businesses. These generally fall within the following categories: (1) public safety; (2) community impacts; and (3) economic impacts.

Potential Public Safety Concerns

Public safety concerns involve drivers making illegal maneuvers to access food trucks and pedestrians walking into the streets to avoid food-truck customers who are blocking the adjacent sidewalks. Another common safety concern is that parked food trucks obstruct law enforcement officers' views into area businesses. There are also public safety concerns that are unique to particular areas where the absence of sidewalks can force pedestrians to congregate in the street, placing them at increased risk from vehicular traffic.

Additionally, the Riverside Police Department reports an increase in complaints and has responded to numerous disturbing-the-peace incidents during early morning hours in Downtown Riverside, which they attribute to the late-night presence of pedestrian food vendors. The bar patrons who congregate around the food vendors can be loud and have engaged in fights and other malicious behaviors. There remains the possibility that food trucks could add additional impacts.

Potential Community Impact Concerns

Community impact concerns focus on security, trash collection, and general public nuisance concerns such as odors permeating the surrounding area, limited access to restroom facilities for both employees and patrons, and proximity and respect for the nearby community.

Potential Economic Impact Concerns

Economic concerns include competition with established brick-and-mortar restaurants that have higher overhead and take up parking in certain areas where food trucks operate.

Community Feedback

The National League of Cities published a report which discusses the regulation and integration of Food Trucks into a community. The report speaks specifically to the stakeholder concerns of both the Food Truck community and the brick and mortar restaurant community, as well as those of the municipality attempting to regulate all entities fairly. Below is an excerpt from the report about the economic drivers for each stakeholder group:

“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.”

To ascertain community interests, staff conducted two virtual community round-table meetings to

provide a background of the project to participants and solicit their feedback and perspectives on several topics related to the City's current sidewalk vending ordinance and future direction of the City concerning food trucks. The first meeting was held on March 25, 2021. This meeting was well attended with approximately 100 participants. The second meeting was conducted on April 8, 2021 and attended by approximately 40 participants. During these meetings, three general perspectives emerged from the community and were considered by staff in drafting this report:

1. Some fully supported legalized food trucks offering cooked food throughout the City;
2. Others supported the concept of food trucks serving cooked food, but thought that they should be restricted/regulated and allowed to operate only in certain parts of the City that are not serviced by restaurants; and
3. Others felt that a decision on this matter should be postponed for at least 12 months to allow local restaurants a chance to recover from COVID-19 challenges without also needing to compete with an influx of additional mobile food vending businesses.

In addition to conducting community outreach meetings, staff also researched several other agency's codes related to mobile food trucks including the following ordinances attached to this report: Cities of Jurupa Valley, Santa Ana, San Diego, and Lake Elsinore.

DISCUSSION:

The four options presented to the Land Use, Sustainability, & Resilience Committee (Committee) on May 27, 2021, were as follows:

1. Continue to restrict mobile food trucks to special events and pre-packaged food.
2. Prepare an ordinance to amend RMC Chapter 5.36 to allow mobile food trucks to operate in compliance with state and county guidelines.
3. Prepare an ordinance to amend to RMC Chapter 5.36 to allow mobile food trucks to operate in compliance with state and county guidelines and in specific locations with operational requirements.
4. Prepare an ordinance to amend RMC Chapter 5.36 to implement a two-year pilot program that is flexible, encourages innovation, and helps uncover and address issues unique to individual communities.

As requested by the Committee, staff has revised RMC Chapter 5.36 to allow mobile food trucks to operate in compliance with State and County guidelines (Attachment 1) for the Committee's consideration.

The following restrictions are contemplated in the draft ordinance and are directly related to objective health, safety or welfare concerns:

- No mobile food merchant shall sell, display, solicit, barter, gift, or exchange or otherwise, any foodstuff or other item, from a vending vehicle within the corporate limits of the City of Riverside, except as set forth in this Code.
- Vending vehicles must be brought to a complete stop and be lawfully parked adjacent to the curb consistent with Vehicle Code 22500 and the provisions of Title 10 of this Code

prior to initiating vending operations.

- Vending vehicles shall not be left unattended or parked overnight in the public right-of-way.
- Vending vehicles shall not park within 100 feet of intersections, traffic signals, and marked or unmarked crosswalks when making a sale or attempting to make a sale.
- Vending vehicles shall not operate out of metered parking stalls and shall respect all curb markings, including but not limited to loading zones, bus stops, and restricted parking areas.
- Vending vehicles shall not operate within any designated bikeway, bike lane, or bicycle parking area.
- Sales from vending vehicles parked along streets shall only occur out of the portion of the vending vehicle that faces the sidewalk, or that portion opposite moving traffic. No sales shall be made to persons standing in the street.
- No mobile food merchant shall operate in a manner that blocks or obstructs the free movement of pedestrians or vehicles.
- No mobile food merchant shall place any sign, chair, table, umbrella or other object in the public right of way, which would obstruct pedestrian or vehicle traffic.
- The Director of Public Works may from time to time create no parking zones, adjust parking space sizes, and impose parking time limits upon vending vehicles in areas that the Director deems necessary for the safe passage of pedestrians and vehicles.
- Mobile food merchants operating a vending vehicle must provide or have garbage receptacles readily available for immediate use by customers of the vending vehicle.
- Mobile food merchants operating a vending vehicle must pick up, remove and dispose of all garbage, refuse or litter consisting of foodstuffs, wrappers, and/or materials at one time dispensed from the vending vehicle, and any residue deposited on the street from the operation thereof, and shall otherwise maintain in a clean and debris-free condition of the entire area within a 25-foot radius of the location where mobile food vending is occurring.
- Ice cream vending. Mobile food merchants engaged in vending ice cream and similar food items in residential neighborhoods shall comply with California Vehicle Code Section 22456, as may be amended from time to time.

Food trucks would not be permitted in parks. This prohibition is made upon the recommendation of the Parks, Recreation & Community Services Department's consideration of objective health, safety, and welfare concerns; the scarcity of parking spaces in the parks; the necessity of ensuring the public's use and enjoyment of natural resources and recreational opportunities, and the necessity of preventing an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of the parks. However, the City Manager or his or her designee may permit a mobile food vendor to operate in a City park in conjunction with a special event pursuant to Chapter 2.28 of this Code or any other City sponsored or approved event.

Lastly, any mobile food merchant who has not been granted a permit to operate in a special event must remain 500 feet away from the boundary of the special event for the duration of the event.

STRATEGIC PLAN ALIGNMENT:

Strategic Priority: 3. Economic Opportunity - Champion a thriving, enduring economy that provides opportunity for all.

Goals:

3.1 - Facilitate partnerships and programs to develop, attract and retain innovative business

sectors.

3.3 - Cultivate a business climate that welcomes innovation, entrepreneurship, and investment

3.4 - Collaborate with key partners to implement policies and programs that promote local business growth and ensure equitable opportunities for all.

1. **Community Trust** – This item has been vetted through numerous Committees with robust public comment. In addition, two community roundtable meetings were held to solicit feedback from all stakeholders. Staff continues to engage community and team members on a regular basis regarding food trucks. The community meetings were marketed via e-mail blasts to constituent groups and the Greater Riverside Chambers of Commerce, direct messages to advocacy groups, and via Council newsletters. Roundtable meetings and Committee Meetings were conducted in both English and Spanish.
2. **Equity** – This item is being undertaken to provide equal entrepreneurship opportunities for segments of the business community that have been highly regulated and restricted. Food trucks can serve as not only a means to provide income, but a means to deliver food to underserved or socio-economically disadvantaged segments of the community. Another often overlooked aspect of food trucks is that not only does it open a pathway for new entrepreneurs, it also creates opportunities for existing brick and mortar establishments to branch out and expand their business footprint. Spanish translation services have been provided throughout the meetings at the City Council sub-committee and community workshops.
3. **Fiscal Responsibility** – Increased food truck activity in the City of Riverside can potentially generate additional sales tax and permit fee revenue. In addition, it can potentially attract additional visitors to areas such as the Downtown Entertainment District by providing additional dining options, thereby further increasing sales tax revenue for area businesses.
4. **Innovation** – The “street food” culture is a growing trend in many progressive areas of the country. Providing a regulatory framework that encourages this entrepreneurship while still safeguarding the public’s health, safety, and welfare would place Riverside among those model cities that are beginning to incorporate this “street food” culture into their downtowns. In addition, food trucks are a popular vehicle for serving quick meals to crowds. This provides an option for residents and workers to enjoy a quick meal with friends, family and colleagues. In many regions, food trucks are test kitchens featuring dishes made with constantly changing local ingredients.
5. **Sustainability & Resiliency** – Expanding food options meets current demands for food options without compromising the needs of the future. Food trucks enjoy a degree of popularity, and this economic opportunity will positively impact the City’s capacity to persevere, adapt, and grow.

FISCAL IMPACT:

There is no fiscal impact associated with this report. However, an increase in the prevalence of food trucks will result in an increased workload for numerous affected City departments. Depending on the scope of the program, additional staff may be required for enforcement and compliance operations.

Prepared by: David Welch, Community & Economic Development Director
Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer
Approved by: Rafael Guzman, Assistant City Manager
Approved as to form: Phaedra A. Norton, City Attorney

Attachments: 1. Proposed Ordinance (Redline)
2. Presentation