



AGENCY:	City Council
MEETING DATE:	July 27, 2015
DEPARTMENT:	Community Dev.
PRESENTED BY:	M. Jones

## AGENDA ITEM SUMMARY REPORT

**TITLE:**

**RECEIVE REPORT AND PROVIDE DIRECTION TO STAFF REGARDING MOBILE VENDING REGULATIONS**

**ISSUE:**

Over the past several years food trucks have grown in popularity and have raised interesting planning debates in many communities. The old days of food trucks driving from factory to office and serving hot dogs and sandwiches are gone. Present-day food trucks serve a wide variety of customers who are looking for exotic flavors, served in interesting ways, at an affordable price, while on the run. Food trucks are popping up in cities around the nation, and serving cuisine from all over the world, many with upscale ingredients. With the recent change in the popularity of food trucks, local jurisdictions have taken a wide variety of stances with regard to regulating their operation, including everything from outlawing them (Turlock, Palm Springs) to allowing food trucks in limited zones or in specific vending courts (San Francisco, Auburn, San Diego, Salinas, Monterey, Sacramento), to giving them free reign (Los Angeles).

However, the growth in the food truck industry is not without its detractors: the primary opposition to regulatory change has come from restaurants. At \$20,000 to \$60,000 for a truck, food trucks can enter the eatery market for significantly less than it takes a restaurant to open, which can easily cost between \$100,000 and \$400,000. Food trucks also have considerably lower operating costs, as they have less staff and can easily move to where the customer is. And now the internet and social media make it easier for food trucks to keep customers apprised of their location and itinerary. Restaurants on the other hand have to attract customers to their location and are concerned about food trucks poaching potential customers at their door.

Mobile vending in Fort Bragg is currently regulated by the City's Municipal Code, Chapter 10.20.150 & 10.20.155 – Peddler's Permit (see Attachment 1). The current regulations are very difficult for businesses to comply with and may de facto prohibit mobile vendors. In the past, numerous people, including competent food truck operators, have approached the City to obtain a peddler's permit, but none have applied for a permit, probably because the current regulations make operating a food truck financially infeasible.

**RECOMMENDED ACTION:**

Provide direction to staff regarding potential changes to the City's mobile vending regulations.

**ALTERNATIVE ACTION(S):**

None.

## **ANALYSIS:**

There are many pros and cons to food trucks, some of which are highlighted below:

Pros	Cons
Affordable way to enter the industry. Affordable way to test-market a restaurant concept, for later adaptation to a brick and mortar location.	Competition with existing restaurants, which may seem unfair if the food trucks park right outside of a restaurant's doors.
Ability to provide food in areas where restaurants are not permitted.	May take market share from tourist attractions and eliminate the need for a tourist to explore downtown to find a place to eat.
Can activate public space by creating a destination where there isn't one. There are some very popular food truck courts under elevated freeways in the Bay Area for example.	Trucks must periodically run engines or generators to keep appliances going which can result in annoying engine noise and fumes that disturb neighboring businesses and/or residents.
Primarily a cottage industry that supports innovation and small business owners.	Large fast food chains are also running food trucks, including Taco Bell and Jack in the Box.
The food is often innovative, relatively inexpensive and convenient, for those willing to stand in line and eat from a paper plate.	May result in negative externalities associated with operation, including: additional trash on the streets/in public trash cans; food stains on sidewalks and street furniture; and less parking available for other businesses or attractions.

## **Legal Considerations**

The City may ban or regulate food trucks within a given zone as long as the regulation is reasonably related to a legitimate government purpose. Further, the City may regulate (but not ban) food trucks on public streets in zones where they are allowed for the purpose of public safety, by regulating the time, place, and manner under which they operate. The courts have not looked favorably on restrictions that are intended to protect existing restaurants and food establishments from competition.

## **Recommendations from the Community Development Committee, the Planning Commission and Staff.**

The following figure summarizes the recommendation from the Community Development Committee, the Planning Commission and City Staff.

**Figure 1: CDC, Planning Commission and Staff Mobile Vending Recommendations**

Regulatory Topic	CDC Recommendation	Planning Commission Recommendation	Staff Recommendation
<b>Type of Products.</b> Mobile vending units can sell a variety of items (food, beverages, flowers, merchandise, etc.).	CDC recommended that mobile vending be limited to food and flowers.	Planning Commission would like to limit mobile vending to food and flowers, and consider including regulations for vending bicycles or other recreational equipment in public parks.	Limit vendors to food and flowers for now.
<b>Zoning Districts.</b> The current Fort Bragg regulation has no zoning district limitations.	Mobile vending in the public right-of-way (ROW) or on private property should be allowed in the zoning districts where restaurants, cafés, or coffee shops are already permitted, including the CO, CBD, CG, and CH zoning districts.	Allow mobile vending in all CO, CBD, CG, CH, and Park and Open space zoning districts.	Allow mobile vending in the CO, CBD, CG and CH zoning districts. Allow by invitation only in public facilities (schools) districts. Allow in parks only as part of organized special events with a Limited Term Permit.
<b>Zoning Regulations.</b>	All vendors on private property would be required to meet setback, parking and signage requirements.	All vendors on private property would be required to meet setback, parking and signage requirements	All vendors on private property would be required to meet setback and parking requirements. Limit on-truck signage to 25 SF. Prohibit off-truck/cart signage such as A-frame signs.
<b>Parks.</b>	Vending along the coastal trail was hotly discussed at the CDC meetings, with many potential vendors very interested in locating their trucks/push carts near or on the Coastal Trail. Concerns were expressed about commercializing this public space and the potential for litter and food spills/stains on the trail/benches. The CDC did not develop a recommendation regarding vending in parks.	Vending with hand/push carts in City Parks (Bainbridge, Guest House grounds, Coastal Trail) or with trucks in City parking lots (City Hall, Noyo Headlands Park) was supported by a majority of planning commissioners as a way of serving and attracting tourists and making our parks more welcoming.	Only allow vending within parks as part of events that have obtained a Limited Term Permit.

Regulatory Topic	CDC Recommendation	Planning Commission Recommendation	Staff Recommendation
<p><b>Vending Zone.</b> The City could designate a vending zone that allocates a certain number of public parking spaces (possibly 3 to 5 spaces) to be reserved for mobile vending with established operating hours and days. Potential vending zone locations include:</p> <ul style="list-style-type: none"> <li>• South Trail Parking Lot</li> <li>• Parking Lot behind the Fire Department between Oak and Alder Streets.</li> <li>• In City ROW near City Hall or Town Hall.</li> </ul>	<p>CDC recommended designating an area for mobile vending to provide trash control and because “clustering” vendors draws in more customers, however they did not settle on a specific location.</p>	<p>PC agreed with CDC and also did not settle on a specific location.</p>	<p>Provide for a vending zone on West Laurel Street adjacent to Town Hall. This is close to the Skunk Train parking (which is leased for public parking which would help mitigate the loss of on-street parking spaces). Since the street terminates in the parking lot, it is a relatively low-traffic location with wide sidewalks and no adjacent business entries. An alternative location is North Franklin Street just north of City Hall.</p>
<p><b>Mobile vending near schools.</b></p> <p>FB school district officials expressed concern with mobile vending near schools during school hours as it could take money from the school lunch program.</p>	<p>The CDC recommended that mobile vending be prohibited within residential districts and/or adjacent to schools when school is in session.</p> <p>Operating hours near schools should be after school and in conjunction with a special school vending permit issued in conjunction with the school district.</p>	<p>The PC indicated that mobile vending should only be permitted at a distance of more than 1,500 feet from any public school, while school is in session or meals are being served.</p>	<p>Staff concurs with both recommendations of CDC and the PC. By prohibiting mobile vending in residential areas, unless part of an organized event that requires a Limited Term Permit, mobile vending will not be possible near schools.</p>
<p><b>Mobile vending near events and farmers market.</b></p>	<p>Don’t allow mobile vending at an event unless agreed to by the event organizers.</p>	<p>Don’t allow mobile vending within 200 feet of an event that requires a Limited Term Permit (such as farmers market) unless it is part of the event.</p>	<p>Staff concurs with PC recommendation. Mobile vending should not be allowed within 200 feet of any event requiring a Limited Term Permit, unless it is part of that event, due to traffic and pedestrian safety concerns.</p>
<p><b>Cart regulations and mobile vending on City sidewalks and trails.</b></p>	<p>No recommendation.</p>	<p>Recommend that carts be allowed on the coastal trail and on sidewalks. City should develop standards for hand carts.</p>	<p>Staff recommends that vending from carts be allowed only as part of events that have obtained a Limited Term Permit. Vending on the Coastal Trail is not compliant with the restrictive covenants imposed by the Coastal Conservancy grant. Vending carts on City sidewalks pose a number of access and liability challenges.</p>

Regulatory Topic	CDC Recommendation	Planning Commission Recommendation	Staff Recommendation
<b>Permit transferability and expiration.</b>	The CDC recommended that the mobile vending permits expire if an operator stops operating for more than six months in a row.	PC recommends that the mobile vending permit be transferable so that it becomes part of the value of a business and can be sold to a new owner along with the business.	Staff concurs with the recommendations of CDC and the PC.
<b>Time Constraints.</b> Mobile vending units can be mobile or stationary. Fort Bragg's current regulation allows a maximum of 30 minutes only in one location.	CDC would like to set a ten hour maximum vending time in one place to allow for both lunch and dinner.	Planning Commission agrees with ten hour maximum, but wants the regulations to also encourage vendors to go from place to place and serve businesses and tourists.	Ten hour maximum vending time. Prohibit food truck vending between 11:00 pm and 6:00 am to reduce impact on residents. Require that mobile vending obey parking time limits on City Streets and in Public Parking Lots, like all other vehicles (e.g. 2 hr. time limit in downtown)
<b>Non-Compete Requirements.</b> Some regulations include minimum distances between the vending unit and existing restaurants.  The current Fort Bragg regulation has no distance requirement.	Require the vending owner to obtain written permission from restaurants within 200 feet of their mobile vending location, and maintain these written permissions on their truck for inspection, if there are any complaints.	No distance requirement. Mobile vendors should be allowed to locate in any zone where it is a permitted use without getting permission from another business.	Staff concurs with PC recommendation.
<b>Seating and site furniture</b>	Require vendors to provide trash, compost, and recycling receptacles. Require vendors to pick-up and dispose of trash within 25 feet of vending unit at the end of the day.	PC recommended that picnic tables and/or benches be allowed if there is sufficient space on the sidewalk and if an encroachment permit is obtained.	Staff concurs with the CDC recommendation. Picnic tables and benches should be permitted only on private property, due to impacts on accessibility and liability issues for the City.
<b>One-time Permit Costs</b> (not including insurance costs)  Business License Encroachment Permit Planning Permits Total	  \$75 \$175 Minor Use Permit \$575 \$825	  \$75 \$175 No use permit required \$250	  \$75 \$175 \$300 Vending Design Review <sup>1</sup> \$550

<sup>1</sup>Administrative approval through the Community Development Department for a Vending Permit with established design guidelines for signage and truck exterior and vending location(s) approval.

Regulatory Topic	CDC Recommendation	Planning Commission Recommendation	Staff Recommendation
<b>Mobile Vending Permit Fee &amp; Requirements</b>	No recommendation	Charge an annual mobile vending permit charge that covers the cost of extra garbage collection and the value of renting a portion of the public right of way.	Staff recommends an annual Vending Permit Fee of \$500/year. Staff recommends review of mobile vending locations on City streets to ensure that the locations will not result in traffic safety concerns, removal of more than one parking space, or pedestrian safety issues.
<b>Number of Mobile Vending Permits</b>	Limit to 6 permits within City Limits	Limit to 6 permits within City Limits and review after one year.	Limit of 3 permits within City Limits. Suggest that this limit be established by Council resolution so it can be modified without the need for an ordinance amendment.

Additionally, mobile vending operations would have to comply with all State and County public health and safety regulations, which include:

- Food Safety, Handling, and Sanitation – Vendors will need to comply with the Mendocino County Environmental Health requirements for Mobile Food Facilities (see attached) which are taken directly from the California Retail Food Code.
- Commissary/Commercial Kitchen – Vendors must use a commissary or commercial kitchen where vendors can dispose of waste, clean vehicles and equipment, and ensure food safety. There are a number of commercial kitchens in town that could serve this need.
- Consistent with Environmental Health, require that vending units operate within 200 feet of a toilet and handwashing facility (public or private with permission) for vending employees.
- Vending must be limited to the sidewalk side of vehicle, per the Vehicle Code.

### **CONSISTENCY:**

The City's Economic Development Strategy recommends a review of our regulations in order to encourage job creation and business development. The revised regulation would be incorporated into the City's Municipal Code.

### **IMPLEMENTATION/TIMEFRAMES:**

If the Council provides direction regarding changes to the City's mobile vending regulations, the next steps include:

1. Draft a revised Ordinance and bring it back to City Council for review and direction; and
2. Undertake the ordinance adoption process.

The timeframe for completion of this process is three to six months depending on Council input and other workload of the department.

### **ATTACHMENTS:**

1. City of Fort Bragg, Municipal Code, Chapter 10.20.150 & 10.20.155 Peddlers Permits
2. Mendocino County Environmental Health, Chapter 10 – Mobile Food Facilities
3. National League of Cities, *Food On Wheels: Mobile Vending Goes Mainstream* Publication
4. CDC Minutes January 27, 2015
5. CDC Minutes April 28, 2015
6. CDC Minutes May 26, 2015
7. PC Minutes July 8, 2015
8. Correspondence Received re Mobile Vending

### **NOTIFICATION:**

1. Mobile vending email notification subscriber list
2. Fort Bragg restaurant owners