

GENERAL INFORMATION

Applicant: City of Bloomington

Request: Consider an ordinance to establish a new mobile food unit license and new standards for mobile food units (“food trucks”)

CHRONOLOGY

Planning Commission:	01/10/19 Study Meeting
City Council:	06/10/19 Study Meeting
City Council:	09/16/19 Study Meeting
Planning Commission:	01/23/20 Public Hearing – item continued
Planning Commission:	03/05/20 Second Public Hearing – recommended approval (5-0 vote)
City Council:	05/18/20 Public Hearing

CHRONOLOGY

Application Date:	11/13/2019
Applicable Deadline:	Agency Action Deadline Waived
Newspaper Notification:	Confirmed – (05/07/2020 Sun Current – 10 day notice)
Direct Mail Notification:	Not required, but staff used many outreach methods (see Outreach Section below).

STAFF CONTACT

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APPLICABLE REGULATIONS

Chapter 14 – Licenses and Permits
Chapter 19 – Zoning
Chapter 21 – Zoning and Land Development

PURPOSE

Food trucks currently operate in the City at public and private events, and sometimes for employees at office buildings. Outside of events, food trucks are generally prohibited. In addition, the Zoning Code does not have a specific definition or set of standards for the operation of food trucks.

The proposed ordinance establishes a definition and clarifies the extent that mobile food units (“food trucks”) may operate in the City by creating a new annual license for mobile food units, adding mobile food units to the use table, and creating standards.

Staff proposes this ordinance as a pilot project. After one year, staff would report to the Planning Commission and City Council the outcomes related to the subject ordinance in order to assess the effectiveness of the regulations and determine if any amendments are needed.

PLANNING COMMISSION PUBLIC HEARINGS

A first draft of an ordinance allowing food trucks to operate off-street, but with more restrictive standards was presented for review by the Planning Commission at a public hearing on January 23, 2020. At the hearing, representatives from the Minnesota Food Truck Association voiced concerns that the standards were too restrictive. The Planning Commission continued the item to allow time to incorporate feedback from the Food Truck Association. Meeting minutes are attached to this staff report.

The proposed ordinance is a revision of the first draft, and was reviewed by the Planning Commission at its March 5, 2020 public hearing. Two members from the audience provided testimony, one in support and one in opposition to the proposed ordinance. Their correspondence is attached. The Planning Commission indicated that there is a need to balance the interests of restaurant owners with the desire to create opportunities for food truck operators. The Commission supported a pilot project approach with review after one year, and recommended approval on a 5-0 vote.

PREVIOUS STUDY MEETINGS

At study meetings before the Planning Commission and the City Council, staff discussed and sought feedback on a range of approaches to regulate food trucks; from more prohibitive to more permissive than what is allowed today as shown in the graphic below.



The Council indicated support for allowing food trucks off-street with tighter standards, but requested a follow-up study meeting to further review the standards. The Planning Commission provided similar direction. The Commission agreed with staff’s recommendation to require that food trucks be associated with a licensed commercial kitchen or “commissary,” and recommended the following standards:

- With consent of the property owner, permit up to three food trucks in a given parking lot at any one time (when not part of an event)
- Do not allow food trucks to park overnight at any vending location (when not part of an event)
- Require a minimal spacing distance from restaurants (ie, 100-150 ft), but not from events, parks, or residential areas.

At the second study meeting before the Council, staff presented a series of potential standards. These included many of the standards recommended by the Planning Commission, as well as a staff proposed standard that would require site plan approval prior to food truck operation at a site. The Council indicated support for these standards and recommended drafting an ordinance to allow food trucks in off-street locations under the appropriate regulations.

ANALYSIS

Much of the following analysis was provided in the staff report for the June study meeting before the Council, and is repeated below for ease of reference.

A food truck (or “mobile food unit”) is defined as a food establishment in a vehicle that can be motorized or trailered. Food trucks often rely on a separate commercial kitchen space or commissary for food storage and initial food preparation (e.g., chopping vegetables). Then, the final product is usually prepared within and sold from a truck or trailer. Food trucks often present increased risks in terms of food handling and contamination. Therefore, food trucks must be equipped with water and waste tanks for hand and utensil washing, cold food holding, and other cooking and exhaust equipment to meet health code requirements. In most cases, food trucks are required to have an employee that is trained in food safety and is a Certified Food Protection Manager through the State.

Food trucks are increasingly common. They allow business incubator opportunities, and bring a variety of foods to the customer. They can serve areas without nearby restaurants, enliven and augment events, and have a symbiotic relationship with businesses such as taprooms. Throughout the region, cities have regulated food trucks in a variety of ways depending on whether food trucks are allowed on streets, parking lots, or as part of events.

While there are positive aspects about food trucks, they are also a unique type of use and create new concerns for cities (in **bold** below).

Health. Compared to commercial kitchens and brick and mortar restaurants, food trucks are generally smaller, require separate water and waste tanks, and are typically associated with a commissary kitchen. For these reasons, food trucks need to take additional precautions in order to meet food safety regulations.

Licensing & Enforcement. Food trucks can be difficult to monitor. Since they are mobile, repeat code violators could jump from one jurisdiction to the next and seek ways to avoid inspection. Code language would need to clarify sufficient enforcement measures.

Competition. Concerns have been raised that food trucks may compete with tax-paying brick and mortar restaurants. Our research indicates that restaurants offer a different level of service than food trucks, since they offer seating, climate controls, larger menus that may include alcohol, longer hours of service, and a fixed, reliable location. However, patrons looking for a quick, on the go meal might opt for a food truck. Restaurants are valuable to the City as they offer fixed locations for food service, community gathering places, and contribute to the tax base; whereas food trucks do not pay property taxes (unless they are associated with a commissary kitchen) and are mobile. In addition, food trucks that are not associated with an event may park nearby and draw customers away and compete with food vendors inside of a licensed event area.

Environmental. Other issues regarding food trucks are related to the use of space around the truck. There are concerns about congestion, trash, parking, signage, lighting, restrooms, and noise.

Although food trucks pose concerns, they are not a new use in the City and are commonly present at events. There is also much research and many examples of how cities regulate food trucks that can provide valuable guidance.

STANDARDS MAINTAINED FROM FIRST DRAFT OF ORDINANCE

The standards listed below were proposed in the first draft of the ordinance that went before the Planning Commission on January 23, 2020, and are maintained in the proposed ordinance. These standards are intended to mitigate the above concerns with the provision that food trucks be required to operate off-street when not associated with an event.

Application

Food trucks that operate through events would not be subject to any of the food truck standards proposed in Section 21.302.15 of the proposed ordinance. This Section specifies that food trucks operating as part of a farmers' market, arts and crafts festival, or other special event are not subject to the location, storage, and operation standards proposed for food trucks that are not associated with an event. For most events, City approval is required and already ensures that the appropriate standards are applied.

Location

Food trucks are proposed as permitted, temporary uses in most zoning districts. Food trucks would not be allowed to operate on streets or other public right-of-ways. The location standards are primarily intended to address pedestrian and vehicular safety concerns. Some of the standards are recommended or provided in fire and building codes.

There are separate standards proposed for food trucks operating at sites that are zoned and used residentially. These standards would apply to non-city sponsored events that may occur at residences, such as graduation parties. The regulations are intended to allow these types of events in a limited capacity and to minimize impacts to neighboring properties.

Storage

Overnight storage of a food truck in a residential district or public right-of-way would not be allowed. Since food trucks would need to be associated with a commercial kitchen or commissary, they would likely be stored at that licensed establishment overnight.

Operation

Many of the operational standards are similar to standards in other cities in the region. In previous study meetings, the Planning Commission and City Council recommended that food trucks be required to leave a site at the end of the day following operation. Standards for permitted operating hours help to enforce this requirement. Most nearby cities indicate 10 p.m. as the end time, and vary from 6 a.m. to 9 a.m. for start times (7 a.m. to 10 p.m. is proposed for non-residential areas in the draft ordinance, with the exception that hours could be extended for food trucks at taprooms and cocktail rooms. 10 a.m. to 9 p.m. is proposed for residential areas). Staff recommends that signs only be allowed if attached to the vehicle in order to avoid conflicts with pedestrian and vehicular circulation. The other operational standards are typical among cities, and are intended to address site cleanliness and limit impacts to nearby properties.

STANDARDS REVISED FROM FIRST DRAFT OF ORDINANCE

Changes to the proposed ordinance in response to the Food Truck Association's concerns and the recommendation of the Planning Commission are described below.

No administrative permit (site plan review) requirement

The first draft of the ordinance proposed that an administrative site review (site plan) permit be required of property owners or managers wanting to host a food truck. The intent of this standard was to make property owners more aware of food truck standards, educate food truck operators about where they can operate, and clarify that property owners are responsible for zoning violations. The Minnesota Food Truck Association indicated that this requirement adds additional burden on an already heavily regulated use. Some of the Planning Commissioners commented on the positive value of having a site plan, but overall the Commission suggested eliminating the site plan requirement to reduce fees and remove barriers to operate. The proposed ordinance removes this site plan requirement.

Add standard allowing three food trucks on a site that is not associated with an event.

The proposed ordinance allows up to three food trucks on a site at one time. Language is added to clarify that while up to three food trucks are allowed on a site, more than three food trucks at one time is not permitted out-right and must be reviewed by city staff to determine if a special event license is needed. Typically, licenses for private special events are required if more than 200 people are anticipated to attend.

No minimum parking space standard

The first draft of the ordinance required that sites hosting food trucks contain at least 50 parking spaces. Understanding that food trucks may occupy parking required by other uses, this standard was created to avoid concerns related to vehicular circulation and congestion. Smaller sites (less

than 50 parking spaces), are unlikely to provide enough on-site customers to support a food truck. Food trucks on less active sites are more likely to rely on customers coming from off-site, which could bring new vehicles to the site and add parking demand.

Planning Commission recommended that this minimum parking standard not be included in the proposed ordinance, given lack of existing evidence around potential impacts on parking and circulation. More examples are needed to better determine the parking demand generated by food trucks and what, if any, vehicular congestion issues arise. As a pilot project, staff can address concerns that arise through future amendments as needed.

Reduce distance requirement from restaurants

The proposed ordinance reduces the spacing distance requirement from restaurants from 250 feet (included in first draft) to 200 feet. The standard was also modified to clarify that spacing distance is measured from any exterior entrance of a restaurant instead of any portion of a restaurant building or tenant space, which further lowers the distance requirement.

Spacing distance requirements are intended to address concerns about congestion. People lined up or cars parked around a food truck could create impacts on nearby uses. Spacing requirements also reduce the number of food trucks that could be in close proximity to restaurants. Brick and mortar restaurants could be impacted by competition from food trucks if located nearby. Requiring adequate separation between food trucks and restaurants helps mitigate potential impacts resulting from close proximity.

Staff reviewed several commercial nodes in the City and determined that the proposed 200 foot spacing standard generally prevents food trucks on smaller properties that abut restaurants, but may not limit food trucks from locating across a street from a restaurant. It also allows food trucks to operate on properties located behind some restaurants that only have front-facing entryways. Our analysis indicates a spacing distance of less than 200 feet would allow food trucks on parcels directly adjacent to many restaurant sites. Comparisons of distances from restaurant entrances at several commercial nodes are attached.

Clarify standards for residential areas

The proposed ordinance more clearly distinguishes between standards that apply to food trucks at residential properties and those that apply to food trucks at non-residential properties. For instance, the proposed ordinance does not include a distance requirement from restaurants if a food truck is operating in a residential area. The proposed ordinance also allows food trucks to operate on-street in residential areas provided they locate as close as possible to the property being served and that on-street parking is not otherwise prohibited. This change was requested by the Food Truck Association who noted that food trucks have difficulty operating off-street on sloped driveways.

The proposed ordinance also removes the four hour time limit that was initially proposed to apply to food trucks operating at residences. The Food Truck Association expressed that this limit was unnecessary and would hurt business. The proposed ordinance would still limit food trucks' hours of operation (10:00 a.m. to 9:00 p.m.) in residential areas. As a pilot project, staff can monitor and address concerns that arise through future amendments as needed.

Reduce license fees

The proposed ordinance recommends creating a new mobile food unit (trucks or trailers) license that would allow food trucks to operate at multiple locations under one license. The new license would help to streamline the review process and reduce the overall cost for those operating at more than one event in a year. Under the existing temporary food establishment license, food trucks are required to obtain a separate license for each site where they operate.

A food truck currently has two options to obtain a temporary food establishment license, one license is for food trucks operating one to three days at a site, and the other is for those operating four to twenty-one days at a site. Both of these options require a separate license per site. The first draft of the ordinance proposed the new annual, multi-location mobile food unit license fee to be double the four to twenty-one day license fee (e.g., \$576). Based on feedback from the Food Truck Association and Planning Commission, the proposed ordinance reduces the fee of the proposed mobile food unit license to double the \$173 one to three day temporary food establishment license fee (e.g. \$346). Food truck operators still have the option to apply for the less expensive single-location temporary food establishment license if they don't anticipate operating at more than one location in the City for up to 21 days. If a food truck receives a temporary food establishment license and later desires to have the annual mobile food unit license, the fees paid will be applied toward the annual fee of \$346.

When a mobile food unit license application is initially received, staff will review the food truck's menu, food preparation and storage practices, Certified Food Protection Manager status, and license status of their commissary kitchen. Their licensed commissary or commercial kitchen may be located in another city. If satisfactory, then an inspection of the food truck and its equipment will occur at Civic Plaza (or other agreed upon location) in order to issue the license. Licenses will be renewed annually thereafter without the initial review unless there are significant changes in operations. Once the annual license is issued, a food truck will be inspected at least twice a year while operating, or when setting up to start operating at a special event. This is the same inspection frequency as licensed restaurants with a similar risk of foodborne illness.

The license fees cover staff time to process an application, inspect food trucks, enforce zoning and food safety requirements, and investigate complaints. Other City expenses for the food licensing and inspection program include software, computers, training, vehicles, office space, and other overhead. The proposed fees fit within the existing fee structure for all food establishment licenses which are revenues of the general fund like other licenses, permits, and property taxes.

PILOT PROJECT

Food trucks are unlike other uses traditionally addressed through the Zoning Code. As restaurants on wheels, they have the ability to locate in multiple zoning districts and often seek areas with high amounts of pedestrian activity and visibility. The proposed standards attempt to address potential impacts to public health, safety, and welfare. However, potential impacts of food trucks can be more thoroughly understood after they begin to operate more frequently in the City. Taking a pilot project approach will allow staff to gain insights on actual impacts and evaluate the effectiveness of the ordinance standards to mitigate identified impacts. Since food trucks operating independent of events would be a new use to the City, staff proposes adopting this ordinance with a plan to return to the Planning Commission and City Council for review after one year.

OUTREACH

Notice of the public hearing was published in the Sun Current, and was sent via e-mail to registered users of the “Zoning Ordinance Updates” and “Planning Commission” e-subscribe groups. Proposed amendments and supporting information is posted on the City’s website.

Following the January 23, 2020 Planning Commission meeting, staff met with the Minnesota Food Truck Association twice to review the draft ordinance and receive feedback. Correspondence from the MN Food Truck Association is attached.

Staff also sent memos by email to other potentially interested parties that summarize the draft amendments in the attached ordinance as well as updates proposed for taprooms and food trucks. Memos were sent to representatives of the Chamber of Commerce, the Convention and Visitors Bureau, Hospitality Minnesota, and the Minnesota Restaurant Association. A similar memo was sent to 847 subscribers of the City’s Food Collaborative e-subscribe list.

RECOMMENDATION

The Planning Commission and Staff recommend approval via the following motion:

In Case PL2019-183, I move to adopt the Ordinance included in the packet to amend Chapters 14, 19, and 21 of the City Code to create a new mobile food unit license and to establish standards for food trucks.

Staff also recommends adoption of a resolution authorizing summary publication using the following motion:

In Case PL2019-183, I move to adopt a resolution authorizing summary publication of the ordinance included in the packet.