



Date of Council Meeting: August 10, 2015

Information Memo

TOWN OF LEESBURG TOWN COUNCIL MEETING

Subject: Food Trucks and Vending Carts

Staff Contact: Scott E. Parker, AICP, Assistant Town Manager

Council Action Requested: None. Information only.

Staff Recommendation: If the Council desires to direct staff to pursue allowing food trucks and/or vending carts in Town, staff offers the following:

Downtown Leesburg does not seem to be a practical location for the allowance of food trucks based on feedback from the community and physical constraints such as parking and lane width of streets. If downtown were to be considered, code changes to only allow them conditionally on private property would be recommended.

If Council were to consider allowing food trucks outside of the downtown area, staff recommends a measured approach to change the ordinance to allow food trucks on private property such as a shopping center or office complex, with specific conditions and permitting similar to Fairfax (see below). However, any such action should be tailored to issues specific to Leesburg such as land parcel size, proximity to neighborhoods, density, etc.

Commission Recommendation: The Planning Commission (PC) and Economic Development Commission (EDC) have discussed whether it would be desirable for the Town to allow food truck/carts throughout town. Some members of each board supported allowing food trucks/carts because they could be the initial step to starting a restaurant business (e.g. Doner and Windy City Red Hots). Others viewed food trucks/carts as a potential threat to existing brick and mortar restaurants. No consensus was reached, but the group did recommend that if Council wished to pursue discussion on the idea of allowing food trucks/carts that restaurants in Leesburg should be part of the conversation.

Fiscal Impact: Undetermined at this time.

Work Plan Impact: Changing the Ordinance to allow food trucks within the Town limits would require text amendments that would need to be prioritized by Council.

Executive Summary: Town Council has requested information to potentially allow food trucks/carts in Town. The information in this memo is a continuation of the discussion on food trucks/carts that originally began at the Town Council meeting on June 24, 2013. The memo from that meeting is attached (Attachment 1). At this meeting, Council directed the Economic Development Commission and the Planning Commission to discuss the idea (see comments above).

This current item provides additional information that was requested as part of Town Council discussion at its meeting of April 27, 2015 (Attachment 2) regarding ordinance requirements, licensing and input gained from Town residents, commercial businesses and restaurants.

Background: The popularity of food trucks and mobile vending has increased nation-wide. This seems to be especially true in places with a vibrant, dense urban nature. These areas also tend to have well-established restaurant markets. In such a market, there have been distinct differences of opinion regarding the presence of food trucks. Some feel that food trucks/carts can add to the vibrancy of a place by providing a different type of food venue and that serves different and unique food in a casual, affordable and convenient format. Indeed, the gourmet fare that can be offered by these trucks has been a significant departure from the construction site trailer of years ago.



Food trucks can also serve as a way to start a restaurant business without incurring the costs generally associated with establishing a brick-and-mortar restaurant. A successful example of this in Leesburg is the Doner Bistro.

However, most established brick-and-mortar restaurants argue that food trucks/carts bring a competitive disadvantage to the market place since they do not have the same overhead costs. Also, since the carts/trucks are mobile, they can go to where the customers are instead of having to rely on being found in a stationary location.

From an administration standpoint, food trucks/carts can present challenges to permitting and collection of required taxes by the temporary/mobile nature of the use. If allowed as a use, careful oversight would be needed to keep track of the trucks. Other jurisdictions have had difficulty with trucks coming in unpermitted once they are allowed. Since they are mobile, they avoid inspection and licensing by not staying in any one place for long.

Avoidance could also happen by opening up on weekends or after business hours when enforcement staff are not working.

The June 24, 2013 memorandum provided information explaining that the use of Food Trucks/Carts is not a listed use in any zoning district. Thus, they are not a permitted use anywhere within Town Limits. The only exceptions to the ordinance are as follows:

- Food trucks or carts that are part of a Town-sponsored event such as the Flower & Garden Show, Fourth of July Celebration, etc.
- Food trucks/carts that are part of private event under certain Temporary Use or Business Special Event Permits.
- Mobile ice cream trucks with a Peddler's License.
- Lunch trucks that move about selling pre-packaged lunch items at construction sites (Town Code Chapter 20).

After discussion on June 24, 2013, the consensus of the Council was to have the Economic Development Commission (EDC) and the Planning Commission (PC) jointly discuss the idea and study the proposal of allowing food trucks/carts in Town.



The group met on July 3, 2013, and the meeting included the four EDC members that were present, two representatives of the Planning Commission and staff from Economic Development and Planning and Zoning. Opinions were divided on the subject with some generally in favor and others not in favor of food trucks/carts. General consensus was that restaurant owners and owners/operators of food trucks and/or carts need to be included in any discussion on

whether or not to allow food trucks/carts, and if so, how and where it should be done.

Council requested that discussion on this issue be resumed at its meeting of April 27, 2015. Questions to begin the conversation were provided to the Council at this meeting:

- Should food trucks and/or carts be permitted in town? Could food trucks/carts provide a competitive disadvantage to “brick-and-mortar” restaurants? Could food trucks/carts provide for greater economic development benefit to the Town?
- If the use is allowed, is it allowed just on work sites?
- Allowed just downtown?

- Allowed anywhere, but not in the downtown?
- If allowed, will there be a limited number of permits available for food trucks/carts?

As a part of exploration of the topic as recommended by the Council (as well as the EDC and PC), staff has conducted additional research on the topic and has provided the information herein.

Town Licensing and Permitting

As previously noted, the Town of Leesburg does not allow food trucks within the Town limits except as noted. In order to allow food trucks, amendments to the Zoning Ordinance to specify their use and associated criteria for their approval/permitting would be needed. At a minimum, ordinance sections to be amended include Section 9.2 (Use table) which identifies specific uses allowed as either permitted or by special exception by district, and Section 9.5 (Temporary Uses).



Other ordinances may need to be amended if food trucks/vending carts are to be permitted on private property such as a shopping center. Items that may need to be addressed include parking, access, pedestrian safety and trash disposal. It is anticipated that a permitting process for food trucks could be created to address specific concerns.

Some jurisdictions that license food trucks seem to utilize the Itinerant Vendor permit (unless a specific permit is created), and it is anticipated that the Town could utilize the same approach or create another permit. It has been determined that Town Meals Tax **would** apply to food trucks if they were allowed; either independently or as part of another business (such as a Pittsburg Ricks). A business license and the payment of Business and Professional Occupational Licensing (BPOL) would be required as well.

Loudoun County Permitting

Loudoun County currently has no zoning restrictions on food trucks. If permitted by a Health Department Permit (see below) they can set up on any private property. It should be noted that Loudoun County is currently processing a Zoning Ordinance Amendment (ZOAM) that adds “Ambulatory retail food/beverage” vendors and mobile vending carts as a use in the PD-MUB District. This use is allowed in one other planned district which is the PD-TREC. One of the issues being addressed is that the use is allowed in this district, but it is undefined which is problematic for County staff. The ordinance is currently in staff review and it is anticipated that significant changes will be made before it goes to a public hearing.

Other jurisdictions

All food trucks in Virginia are regulated by the State of Virginia, Virginia Department of Health (VDH). Any municipality that issues a Health Department Permit for a food truck that contains state required information is deemed acceptable within all Virginia



jurisdictions. For example, if Prince William County issues a Health Department permit for a food truck, it is accepted in all jurisdictions including Loudoun County. Loudoun County has indicated that a Loudoun County Health Department permit could work for Leesburg (as well as all other jurisdictions) should the Town begin to permit food trucks. A copy of the Loudoun County health Department permit has been included (Attachment 3).

Most jurisdictions have established specific regulations for food trucks in addition to the requisite health permits mentioned above. Arlington, Fairfax and Alexandria are all examples of jurisdictions that have created specific regulations for the emergence of the food truck industry. One such example is Arlington's "Base of Operation Agreement" that is required by private property owners that allow food trucks.

Lovettsville allows food trucks in commercial areas that allow restaurant uses with property owner approval whereas Purcellville only allows food trucks as an accessory use for distilleries, brewpubs or similar uses.

Fairfax County has been an interesting case study in the emergence of the food truck industry. In October of 2014, when considering rules changes, Fairfax County Board of Supervisors Chairperson Sharon Bulova stated "Food trucks are particularly popular for workers and residents in more urban areas, and I expect to see more of them operating at popular destinations such as Tysons, Mosaic District, Reston Town Center, and the newly renovated Springfield Mall. Food trucks offer a convenient dining choice and a new compliment to Fairfax County's dining experiences."

Previously in Fairfax, food trucks were considered a stand-alone fast food restaurant use on private property that required special exception approval. With that came a \$16,000 fee and at least two public hearings. New regulations were instituted in 2014, and only apply to private property and food trucks still may not park on public roads to sell food. (It is unclear if this will be amended given a change in VDOT's position as outlined below). Currently, Fairfax County Code, 82-1-30, prohibits sales from vehicles parked

along any road, highway or street. Fairfax has maintained a position that vending along roads poses a danger to other motorists and pedestrians.

Fairfax's new rules permit food trucks to do business as follows:

- Trucks must apply for a single, annual \$100 zoning permit along with a \$35 Solicitor's License, and a \$40 Food Establishment Permit from the Health Department.
- Trucks must have written consent from property owners to do business at their location.
- Property owners must apply for a one-time \$100 food truck permit, and they must detail where the trucks will be located. They may not block a property's entrances or exits, travel or fire lanes, or required parking spaces.
- Trucks may stay at any single location for four hours in total (including set up and take-down), but they may sell food from multiple locations. Property owners and food trucks must specify the time period for operations, but they may only be during a property's normal business hours.
- Up to three trucks may operate at any single location.
- Trucks may only sell food at developed industrial or commercial properties that have a minimum of 25,000 square feet in gross floor area. This threshold is based on the Zoning Ordinance that currently says an office park must be a minimum of 25,000 square feet.
- Trucks may not be the primary or principal use at a lot. Under the proposed regulations they are considered an accessory use.

County officials and industry representatives will meet in one year to monitor and evaluate the new regulations.

In Washington D.C., certain areas of streets were identified as legal and appropriate for food vending. Since the areas were carefully chosen, based on feedback (and complaints) from restaurants, the areas are limited. As a result, Washington has established a lottery system for the spaces that can only accommodate so many trucks. All indications are that this has been a problematic approach based on the volume of food trucks wanting the limited spaces and the administration of the lottery process.

Virginia Department of Transportation (VDOT)

On June 17, 2015, the Transportation and Mobility Planning Division of the Virginia Department of Transportation (VDOT) gave a presentation to the Commonwealth Transportation Board (CTB) related to the topic of Mobile vending on state highways. Currently, mobile vending is not allowed on state highways. The point of the presentation was to outline proposed changes to create criteria for the licensing of mobile vending on state roads. The discussion centered on potential changes that could include:

- Potential for allowing mobile vending except for limited access highways.

- Regulations that would allow localities to regulate vendors consistent with local ordinances and CTB rules and policies.
- Engage localities regarding creating permitting procedures for mobile vending.

At its July 15 meeting, the CTB passed a resolution approving changes to the Land Use Permit Regulations to permit localities to administer programs allowing mobile food vending on state highway right-of-way. This change would only impact highways that are maintained by VDOT (secondary and primary highway systems) and not urban system or a local system (Arlington controlled roads, for example).

Before the action becomes effective, additional steps must be completed. First, VDOT must secure a letter from the Office of the Attorney General verifying the statutory authority to amend the regulations and confirming that the exemption from a full-scale Administrative Process Act amendment VDOT is claiming is properly invoked. After VDOT receives the Attorney General's letter, VDOT must file documentation with the Department of Planning and Budget and the State Registrar of Regulations explaining the purpose for the change. Finally, once the notice of amendment is published in *The Virginia Register*, a 30-day adoption period must elapse before the change becomes effective. The resolution and attachment are included with this report (Attachment 4).

Town outreach efforts

Town staff has contacted approximately 25 restaurant and business owners to ask their opinion on the subject of allowing food trucks. Of all the business polled within the downtown, all but one was unanimously and strongly opposed to the idea of allowing food trucks. Some of the reasons indicated include:

- Why would downtown owners want to invest in their properties?
- Parking is limited and narrow.
- A lot of effort has been expended to encourage bricks and mortar restaurants and this would undo that effort.
- This type of competition would be unacceptable.
- Trucks would be unsightly in a historic setting.
- Most felt that the tax base would ultimately be damaged by this proposal.
- Quite a few felt that they had enough to deal with now, and this would be a headache they don't need.

Of the businesses polled outside of the downtown, most were ambivalent to the



idea, but did say that competition with existing restaurants could be an issue for them. Some property owners were receptive to the idea as part of their overall business strategy for their properties, however.

Attachments: Attachment 1: Town Council memo of June 24, 2013.
Attachment 2: Town Council memo of April 27, 2015
Attachment 3: Loudoun County Health Department Permit
Attachment 4: Commonwealth Transportation Board Resolution and
attachment of July 15, 2015



Date of Council Meeting: June 24, 2013

TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION

SUBJECT: Food Trucks/Carts Information Memorandum

STAFF CONTACT: Christopher Murphy, AICP, Zoning Administrator

RECOMMENDATION: None. For information only.

ISSUES: Does the Leesburg Zoning Ordinance or Town Code permit food trucks/carts?

BACKGROUND: Neither the Zoning Ordinance or the Town Code currently provides permissions for mobile food trucks or carts. This exclusion most certainly results from the long-standing policy to not issue permits for such uses since they have been viewed as putting the Town's "brick and mortar" restaurants at a competitive disadvantage.

Town Code Chapter 20, Section 20-254 Peddlers and Iterant Vendors provides for licensing and taxation of such uses where permitted. This Section also defines *Iterant Vendor* and *Peddler*. If a food truck/cart were to be permitted and issued a Zoning Permit, the use would fall under one of these two definitions, depending on how the food truck/cart operated, i.e., whether it moved throughout the Town daily, or if it stayed in one place throughout the day for a certain period of time.

Zoning Ordinance Section 9.2 Use Table provides a master list of all permissible permanent uses permissible within each of the Town's zoning districts. No food trucks/carts are listed anywhere in this use table.

Zoning Ordinance Section 9.5 Temporary Uses provides a listing of permissible temporary uses and whether such uses are permitted in residential or commercial zoning districts. Nowhere under Section 9.2 is food truck/cart listed as a stand-alone temporary use. However, it is not out of the ordinary for food vendors to be included as part of some permissible temporary uses, e.g.:

- Fair, in the R-1;
- Carnival, circus, festival, fair, dog show, horse show, fireworks show, tent revival or similar meetings; or,
- Farmers market

In those instances when a food vendor is part of a permitted temporary use event the Town does not issue any type of separate business license for those vendors. Any vendors simply fall under the overall Special Events Permit or Temporary Use Permit as applicable.

The popularity of food trucks/carts appears to be heightening nation-wide, especially in those places with a vibrant, well-established restaurant market. In such a market-place, one can argue food trucks/carts can add to the vibrancy of that place by providing a different type of food venue and serving a different food service niche. Food cart/trucks can also serve as a way to start-up a restaurant business without incurring the costs generally associated with establishing a brick-and-mortar restaurant. A successful example of this in Leesburg is the Doner Bistro.

Some established brick-and-mortar restaurants may argue that food carts/trucks bring a competitive disadvantage to the market place since they do not have the same overhead costs brick-and-mortar restaurant must pay. Also, since the carts/trucks are mobile, they can go to where the customers are instead of having to rely on being found in a stationary location. Thus, brick-and-mortar establishments must rely more on advertising than a competing food cart/truck might.

From an administration standpoint, food trucks/carts can present challenges to permitting and collection of required taxes by the temporary/mobile nature of the use. By being mobile the uses can avoid inspection by not staying in any one place for long. Avoidance could also happen by opening up on weekends or after business hours when enforcement staff are not working. In any instance when this might occur a food truck/cart is not paying for a Business License and is thus avoiding payment of Meals Taxes and BPOL that brick and mortar restaurants must pay.

Staff recommends that Town Council seeks a careful balance between the brick and mortar restaurants and food trucks/carts if the Town is to begin permitting the latter. Some things to consider include:

- The Town has previously issued Zoning Permits and Peddler's & Itinerant Vendor's Licenses to mobile lunch trucks that travelled to the various construction sites then active throughout town. These trucks typically served pre-packaged sandwiches and drinks. Normally, they were not selling made to order items and were not testing grounds for start-up restaurants.
- Will food carts/trucks be permitted on public streets, or, will they be restricted to private property (e.g., parking lots) only?
- In what zoning districts will food carts/trucks be permitted in? Can they be anywhere within those zoning districts? Should a specified area of town be designated for food carts/trucks? Creating a specific location could address any concerns by brick-and-mortar restaurants that a competitive disadvantage is created by the mobility of food vendor's carts/trucks. Such location requirements would also help to minimize administrative efforts required by staff.
- Should additional use standards be applied for certain public health matters, e.g., trash disposal, food storage, etc. Or, would the Town rely on state and/or county health code requirements?

Planning and Zoning staff and Economic Development staff have discussed the food carts/trucks matter and recommend that if Council wishes to explore this topic further, that it be referred to the EDC for discussion and recommendations.



Date of Council Meeting: April 27, 2015

**TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION**

Subject: Food Trucks/Carts

Staff Contact: Christopher Murphy, Zoning Administrator

Council Action Requested: Further direction to staff, EDC and PC on whether Council wishes to allow food trucks/carts and if so, more direction on the means by which the Town should get opinions from existing restaurants on the issue (e.g. input sessions, surveys, etc.).

Staff Recommendation: None.

Commission Recommendation: The Planning Commission and Economic Development Commission discussed whether it would be desirable for the Town to allow food truck/carts throughout town. There were opinions on both sides of issue. Some supported allowing food trucks/carts because they could be the initial step to starting a restaurant business (e.g. Doner and Windy City Red Hots). Others viewed food trucks/carts as a potential threat to existing brick and mortar restaurants. No consensus was reached but the group did recommend that if Council wished to pursue discussion on the idea of allowing food trucks/carts that restaurants in Leesburg should be part of the conversation.

Fiscal Impact: None at this time.

Executive Summary: Council members have been exploring the idea of allowing food trucks/carts in Town. The last time this issue was before Council, they directed the EDC and PC to discuss it (See comments above). This item is a follow-up from the EDC/PC meeting on the question of food trucks. Staff will be looking for direction from Council on next step(s), if any, with regards to allowing food trucks in town.

Background: This is a continuation of the discussion on food trucks/carts that originally began at the Town Council meeting on June 24, 2013. In preparation for that meeting, staff presented a memorandum dated June 24, 2013 that outlined information pertaining to the use of food trucks/carts in Town. This memorandum is attached to this memorandum as Attachment 1.

In short, the 6/24/13 memorandum provided that the use of Food Trucks/Carts is not a listed use in any zoning district. Thus, they are not a permitted use anywhere within

Town Limits. The only exceptions to this being food trucks or carts that are part of a Town-sponsored event such as the Flower & Garden Show, Fourth of July Celebration, etc; food trucks/carts that are part of private event under certain Temporary Use or Business Special Event Permits; mobile ice cream trucks with a Peddler's License; and, lunch trucks that move about selling pre-packaged lunch items at construction sites (Town Code Chapter 20).

After discussion on June 24, 2013, the consensus of the Council was to have the Economic Development Commission, along with the Planning Commission, discuss the idea and study the proposal of allowing food trucks/carts in town.

At the EDC meeting on July 3, 2013 the EDC (4 members present) with representatives of the Planning Commission (2 members) along with staff from Economic Development and Planning and Zoning met on this question. Opinions were divided on the subject with some EDC and PC members generally in favor and others not in favor of food trucks/carts. General consensus was that restaurant owners and owners/operators of food trucks and/or carts need to be included in any discussion on whether or not to allow food trucks/carts, and if so, how and where it should be done.

No further discussion of this question had been pursued until a Council request for an update. This was provided via an Information Item from Scott Parker dated January 26, 2015 which was included in the Town Council Work Session agenda packet for that date. (Attachment 2)

Council has again requested that discussion on this issue be resumed. Staff will be available at the work session on April 27 to introduce the topic by reviewing current regulatory restrictions and to answer questions that pertain to the Zoning Ordinance and the Town Code which may arise during the Council's discussion of the topic. Staff has provided some discussion-starter questions below should the Council want them. As a part of exploration of the topic and as recommended by the EDC and PC, the Council could consider directing staff to survey local restaurants to see if there is a desire to allow food trucks/carts and/or to schedule an input session on the topic.

- Should food trucks and/or carts be permitted in town? Could food trucks/carts provide a competitive disadvantage to "brick-and-mortar" restaurants? Could food trucks/carts provide for greater economic development benefit to the Town?
- If the use is allowed, is it allowed just on work sites?
- Allowed just downtown?
- Allowed anywhere, but in the downtown?
- If allowed, will there be a limited number of permits available for food trucks/carts?

Attachments: (1) June 24, 2013 Information Memorandum from Chris Murphy
(2) January 26, 2015 Information Memorandum from Scott Parker



Loudoun County Health Department

P.O. Box 7000
1 Harrison Street Southeast
Leesburg VA 20177-7000

Mobile Food Guidelines and Information Packet

Temporary Food Coordinator: Tamara Shellenberger
E-Mail: Tamara.Shellenberger@loudoun.gov

Cell: (571) 268-5814
Office: (703) 777-0642 Fax: (703) 771-5023

This information is intended for use by mobile food units only. These requirements are not to be mistaken for any other regulations that exist for permanent restaurant operations, temporary events or food manufacturing businesses. Please contact the Loudoun County Health Department if you have any questions regarding the service and preparation of foods intended for public consumption.

This packet includes the following information:

1. **Mobile Food Unit permit application fee**
2. **Mobile Food Unit permit overview**
3. **Definitions**
4. **Permit application**

Mobile Food Permit Application Fee

A **\$40 fee** is charged to mobile food unit owners/operators annually expiring twelve (12) months from opening date. If a mobile food unit is permitted in any other jurisdiction within Virginia, a permit and application to sell food in Loudoun County is not required. However, an Itinerant Vendor's Business License is required by the County Treasurer's Office and a Peddlers License is required by the Loudoun County Sheriff's Office.

Mobile Food Unit Permit Overview

The applicant must submit the following forms annually. All forms and lists must be completed and signed before scheduling an appointment for a final approval inspection.

1. Menu list, such as, cold sandwiches, prepackaged snack foods, coffee, canned / bottled drinks, chili, stew, etc. Food items must be labeled and from an approved source.
2. Health Department Permit Application completed, signed and dated. The Vehicle ID Number (VIN) and the license plate number must be on the application.
3. A \$40.00 Permit Fee

4. The mobile food unit must have the following equipment / facilities:
 - a. Hot and cold running water; wastewater tank 15% larger in capacity than water supply tank with drain plug.
 - b. Separate hand sink, hand soap, and paper towels.
 - c. Three basin sink for dishwashing; dish soap, sanitizer, sanitizer test kit.
 - d. Metal stem food thermometer(s) accurate to within 2 °F.
 - e. Equipment / supplies based on menu items:
 - Electric refrigeration or drained ice for cold foods (41°F or less).
 - Hot holding unit for hot foods (minimum 135°F).
 - Approved storage for disposable cups/bowls, etc. Wrapped disposable flatware / coffee stirrs.
 - Condiments in squeeze bottles or individual packets.
5. All food, water, ice cream, and ice shall be from approved sources. If well water, submit recent water sample test results; or use bottled water.
6. Maintain **cold holding** of potentially hazardous foods at **41°F or below** at all times.
7. **Cook** to at least the following temperatures:

Poultry to 165 °F
Ground Beef to 155°F
Pork to 145°F
8. **Rapidly reheat** potentially hazardous foods to 165°F or higher.
9. Maintain **hot holding** of potentially hazardous foods at **135°F or above** at all times.
10. Do not touch ready-to-eat foods with bare hands. Use gloves, tongs, or deli paper.
11. Provide and use effective hair restraints.
12. A **Person in Charge** must be present during all hours of operation. The Person in Charge shall be a certified food manager OR demonstrate knowledge of foodborne disease prevention and the requirements of the Food Regulations by correctly responding to questions presented by the health department as they relate to the specific food operation.
13. If **time only**, rather than time in conjunction with temperature is used as a public health control for potentially hazardous food that is displayed or held for service for immediate consumption:

Then the food shall be marked to indicate the time that is **4 hours** past the point in time when the food is removed from temperature control. Within these 4 hours, the food shall be cooked, served or discarded.

Definitions

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. "Comminuted" includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage; and a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausages made from 2 or more meats.

"Injected" means tenderizing a meat with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping". During injection infectious or toxigenic microorganisms may be introduced from its surface to its interior.

"Mobile food unit" means a Mobile truck, chuck wagons, food trailers, hot dog cart, or pushcarts. Mobile Food Unit **does not mean** automobiles, trucks, or vans not designed for food preparation.

"Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:

1. The rapid and progressive growth of infectious or toxigenic microorganisms;
2. The growth and toxin production of *Clostridium botulinum*; or
3. The growth of *Salmonella Enteritidis* in raw shell eggs.

"Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified above in this definition.

"Pre-packaged Food" means ready to eat commercially individually packaged food such as chips, crackers, party mixes, or pretzels.

"Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.



Loudoun County Health Department

P.O. Box 7000
1 Harrison Street Southeast
Leesburg VA 20177-7000

Application for a Mobile Food Unit Permit

New Business Renewal Name Change Change of Owner

Business Name _____ Owner Name _____

Address _____

Contact Cell _____ Work _____ E-Mail _____

VIN Number _____ License Tag Number _____

Water Public (Municipal) Private (Well) Sewage Public (Municipal) Private (Septic)

Location or Route and Times

Food/Beverage *	Where Purchased	Where Prepared		How Prepared
		<input type="checkbox"/> Onsite	<input type="checkbox"/> Offsite **	
		<input type="checkbox"/> Onsite	<input type="checkbox"/> Offsite **	
		<input type="checkbox"/> Onsite	<input type="checkbox"/> Offsite **	
		<input type="checkbox"/> Onsite	<input type="checkbox"/> Offsite **	
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		<input type="checkbox"/> Onsite	<input type="checkbox"/> Offsite **	
		<input type="checkbox"/> Onsite	<input type="checkbox"/> Offsite **	

* Provide Copy of Additional Items

** Must be a permitted facility - provide a copy of the permit

Signature _____ Title _____

Print Name _____ Date _____

Fee \$40

Make Checks Payable to VDH



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Aubrey L. Layne, Jr.
Chairman

1401 East Broad Street
Richmond, Virginia 23219

(804) 786-2701
Fax: (804) 786-2940

Agenda item # 3

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

July 15, 2015

MOTION

Made By: Mr. Garczynski, Seconded By: Mr. Williams
Action: Motion Carried, Unanimously

Title: Authorization to Amend the *Land Use Permit Regulations (24VAC30-151)* to allow mobile food vending in accordance with Chapter 466 of the 2015 Acts of Assembly

WHEREAS, the Commonwealth Transportation Board (CTB) adopted the *Land Use Permit Regulations (24VAC30-151)* on October 15, 2009, which prohibited vending on state highway right of way; and

WHEREAS, Chapter 466 of the 2015 Acts of Assembly directs the Commonwealth Transportation Board to amend its regulations to allow mobile food vending on state highway rights-of-way except on limited access highways; and

WHEREAS, the Virginia Department of Transportation (VDOT) is directed to solicit input from localities and other stakeholders in the process of amending the regulations; and

WHEREAS, VDOT issued a general notice on April 2, 2015 that was published in the *Virginia Register* and online through the Department of Planning & Budget's Virginia Regulatory Town Hall soliciting comments regarding mobile food vending on state highway rights-of-way; and

WHEREAS, VDOT contacted the Virginia Association of Counties, the Virginia Municipal League, the Fairfax County Chamber of Commerce, Fairfax County, and the DC-Maryland-Virginia Food Truck Association for comments; and

Resolution of the Board

Authorization to Amend the *Land Use Permit Regulations* (24VAC30-151) to allow mobile food vending in accordance with Chapter 466 of the 2015 Acts of Assembly

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WHEREAS, the general notice expired on May 4, 2015 with 6 comments received; and

WHEREAS, comments received to date have been positive and in support of the recommended action; and

WHEREAS, the Commonwealth Transportation Board finds that amending the *Land Use Permit Regulations* to allow mobile food vendors to operate in accordance with Chapter 466 should be accomplished expeditiously.

NOW, THEREFORE BE IT RESOLVED, the Commonwealth Transportation Board approves the amendments to the *Land Use Permit Regulations* (24VAC30-151) as shown in Attachment A as required by Chapter 466 of the 2015 Acts of Assembly; and

BE IT FURTHER RESOLVED, that the Commonwealth Transportation Board directs VDOT to process the amendments as required under procedures established by the *Code of Virginia*, the Governor, the Registrar of Regulations, and the Department of Planning and Budget for the amendment of regulations under the Administrative Process Act.

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ATTACHMENT A

24VAC30-151-570. Prohibited Uses of the Right-of-Way

No permit shall be issued for the following uses of the right-of-way:

1. Signs. Signs not otherwise allowed in this chapter shall not be placed on the highway right-of-way or overhang the right-of-way.
2. Vendors on right-of-way. Permits will not be issued to vendors for operation of business within state rights-of-way, except
 - a. Aas may be allowed for waysides and rest areas under the Rules and Regulations for the Administration of Waysides and Rest Areas (see 24VAC30-151-760).
 - b. Vendors of newspapers and written materials enjoy constitutional protection under the First Amendment to place or operate their services within rights-of-way, provided they neither impede traffic nor impact the safety of the traveling public. Newspaper vending machine size, placement and location shall be as directed by the district administrator's designee for that area.
 - c. To localities to administer mobile food vending on non-limited access highways, where the vending operations are regulated by local ordinances, operated consistent with such ordinances, and in accordance with the Commonwealth Transportation Board's regulations and policies.
3. Dwellings. No private dwellings, garages, or similar structures shall be placed or constructed within the right-of-way, except as may be allowed under 24VAC30-151-220 and 24VAC30-151-230.