

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: 1/27/15 **CUT OFF DATE:** 1/21/15
1/27/15 (1st Reading) 2/10/15 (2nd Reading/Public Hearing)

RESOLUTION **ORDINANCE** X **PUBLIC HEARING** X

ITEM TITLE:

TA-14-698 - AN ORDINANCE AMENDING AND REENACT ARTICLES 1, 18, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MOBILE FOOD ESTABLISHMENT DEFINITIONS, PERMITS, AND FEES. (Proposal will establish basic permitting and operational standards for food trucks on private property.)

STAFF RECOMMENDATION:

Adopt the text amendment.

PUBLIC NOTICE AND HEARING:

Public hearing required with 2nd reading on 2/10/2015.

ADVISORY BOARD RECOMMENDATION:

Planning Commission unanimously forwarded with favorable recommendation.

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Planning Director			<u>1/21/15</u>
2. City Attorney			<u>1/21/2015</u>
3. City Manager			<u>21 Jan 15</u>
4. Clerk of Council			

Initiating Department Director's Signature:  1/21/2015
(Zoning and Inspections)



APPROVED AS TO FORM:

 1/21/2015
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Aaron Grisdale, Director of Zoning and Inspections *AMB*
Date: January 27, 2015
Re: TA-14-698 - AN ORDINANCE AMENDING AND REENACT ARTICLES 1, 18, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MOBILE FOOD ESTABLISHMENT DEFINITIONS, PERMITS, AND FEES. *(Proposal will establish basic permitting and operational standards for food trucks on private property.)*

THE ISSUE:

This zoning ordinance text amendment was sponsored by Planning Commission to establish basic permitting and operational standards for mobile food establishments/food trucks on private property in the City. Presently, there are not clear standards in the ordinance to address this trending business movement.

RELATIONSHIP TO STRATEGIC PLAN:

Goal 1 – Grow the Economy, Objective 4 – Increase number of startup businesses; Objective 5 – More diverse local economy.

Goal 2 – Create a More Livable City for All, Objective 3 – Manage future growth, development and redevelopment consistent with City’s vision, comprehensive plan and development standards and policies

BACKGROUND:

In recent months, staff has received an increasing number of inquiries of potential food truck vendors desiring to operate within the City. However, our present zoning ordinance provisions do not directly nor adequately address this issue. Staff organized a working group consisting of the Chamber of Commerce, a local restaurateur, a food truck operator, and a previous Planning Commissioner to study the issue and present an ordinance recommendation. This proposal under review is a result of this working group.

****January 27, 2015 Update****

Following discussion at the 1/13/15 Council Work Session, staff developed three changes to the proposed ordinance in line with Council’s requests:

1. Expand the permit revocation considerations to include applicable federal, state, and local laws in Section 18-25-1F.
2. Include language to clarify that no permit authorized under the mobile food establishment standards shall authorize a mobile vendor to operate on a public street in Section 18-25-1G.
3. Eliminate the hours of operation standard in Section 18-25-3

(Full staff report attached).

BUDGET IMPACT:

No funding is required.

OPTIONS:

- Adopt the text amendment
- Adopt the text amendment with modifications
- Decline to adopt the text amendment

RECOMMENDATIONS:

The Planning Commission unanimously recommended approval.

AN ORDINANCE AMENDING AND REENACT ARTICLES 1, 18, 21 AND 23 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MOBILE FOOD ESTABLISHMENT DEFINITIONS, PERMITS, AND FEES.

14-698

Draft 3 - 1/15/2015

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Ed. Note: The following text represents excerpts of the Zoning Ordinance that are subject to change. Words with strikethrough are proposed for repeal. Words that are boldfaced and underlined are proposed for enactment. Existing ordinance language that is not included here is not implied to be repealed simply due to the fact that it is omitted from this excerpted text.

ARTICLE 1
DEFINITIONS

SECTION 1-2. DEFINITIONS.

1-2-65.1 **MOBILE FOOD ESTABLISHMENT: A readily movable wheeled vehicle or towed vehicle designed and equipped for the preparation, service and/or sale of food. This term includes mobile food units, food trucks, and similar apparatuses.**

SECTION 18-25 **MOBILE FOOD ESTABLISHMENTS**

The intent of this section is to establish basic operational standards for mobile food establishments as well as appropriate protections of public health, safety and welfare for their operation on private property. Mobile food establishments are by definition itinerant and not permanent fixtures to a specific property.

18-25-1 **GENERAL REQUIREMENTS**

- A. **For the purposes of this Section, the terms permittee, operator, and vendor all shall mean a licensed mobile food establishment, as defined in Section 1-2-65.1.**
- B. **A mobile food establishment permit authorized by the Administrator shall be required prior to the operation of a mobile food establishment on a privately owned parcel.**
- C. **A mobile food establishment permit allows the permittee to operate at up to ten (10) different properties. An applicant may apply for more than one (1) such permit. A fee as provided in Section 23-8 of this Ordinance shall be required for each permit.**
- D. **A mobile food establishment permit is valid through December 31 of the year upon which the permit was issued.**
- E. **A mobile food establishment does not include outside vendors permitted pursuant to Section 18-7 of this Ordinance pertaining to uses on the public sidewalk in the Primary and Secondary Assessment districts.**
- F. **A mobile food establishment permit may be revoked by the Zoning Administrator at any time, due to the failure of the permit holder to comply with all requirements of this Article and**

other applicable federal, state and local laws. Notice of revocation shall be made in writing to the permit holder. Any person aggrieved by such notice may appeal the revocation in accordance with Article 21 of this Ordinance.

- G. No permit authorized by this Section and issued by the Administrator shall authorize a mobile food establishment to operate on or from a public street.

18-25-2 APPLICATION REQUIREMENTS

- A. Applicants for a mobile food establishment permit authorizing the operation on private property must provide:
- 1) A City business license (or a statement from the Commissioner of Revenue that no City business license is required);
 - 2) A valid permit from the Virginia Department of Health stating that the mobile unit meets all applicable standards. A valid health permit must be maintained for the duration of the mobile food establishment permit;
 - 3) Written permission from the owner(s) of the private properties upon which the permittee will operate;
 - 4) Description of the days of the week and hours of operation for proposed vending at each proposed property; and,
 - 5) A sketch to be approved by the Zoning Administrator for each property, illustrating access to the site, all parking areas, routes for ingress and egress, placement of the mobile food unit, distance from property lines, garbage receptacles and any other feature associated with the mobile food unit;
- B. A permit shall not be required for the location or setup of a mobile food establishment on private property for the catering or providing of food service to a closed private event (such as weddings, birthdays, picnics, etc.). During such an event no public vending shall be permitted.
- C. A permit and fee shall not be required for individual mobile food establishments if the operator is participating in an approved fair, festival, or similar event on private property, approved by a temporary event permit pursuant to Section 18-17-3 of this Ordinance.

18-25-3 OPERATIONAL REQUIREMENTS

- A. No vendor shall remain on site at one property for more than forty-eight (48) consecutive hours.
- B. Vendors shall comply with Article 17 of City Code pertaining to noise control.
- C. Only food and non-alcoholic beverages incidental to the permitted vendor shall be sold from the mobile unit. Retail sales of merchandise are permitted as an accessory use to the primary use of food sales.
- D. One 10'x10' tent and a table that fits underneath may be utilized to provide condiments to patrons.

Deleted: ~~Operation of a mobile food establishment may take place between the hours of 7:00 a.m. and 10:00 p.m.~~

- E. Portable receptacles for the disposal of waste materials or other litter shall be provided. All waste shall be removed and disposed of daily by the mobile food establishment operator. Public trash receptacles shall not be used for compliance with this section.
- F. No liquid or solid wastes may be discharged from the mobile unit.
- G. Signage:
 - 1) Signage may be imprinted on the exterior body of a licensed mobile food establishment and include the use of an attached or detached menu board.
 - 2) Advertisements for businesses other than the mobile food establishment may not be utilized.
- H. No tables or chairs for patron's use may be set up in association with the mobile food establishment.
- I. The operator of a permitted mobile food establishment must conspicuously display the approved permit for public inspection.
- J. All required taxes must be paid and in conformance with Article 27 of City Code.
- K. A three-foot wide clearance area must be maintained around the mobile food establishment.

18-25-4 LOCATION REQUIREMENTS

- A. Mobile food establishments shall only be permitted in districts that permit a restaurant by-right.
- B. Mobile units may be located in any off-street parking lot in a location that does not block any drive aisles, ingress and egress from the property, or designated fire lanes. In no situation shall vendors be permitted to operate on grass, dirt or other non-improved parking surfaces.
- C. No parking space that satisfies a Zoning Ordinance parking requirement shall be converted into a parking space or vending area to accommodate a mobile food establishment.

21-2-2 The appeal period for violations of this Ordinance pertaining to the following uses shall be ten (10) days, pursuant to §15.2-2286 (12/10/13, Case TA-13-138, Ord. No. 2013-14):

- a. Any violation of Sections 18-8-12.1 through 18-8-12.3, pertaining to temporary signs.
- b. Any violation of Sections 18-9-5 through 18-9-5.4, pertaining to yard sales.
- c. Any violation of Section 18-12, pertaining to visual obstructions.
- d. Any violation of Section 18-17, pertaining to mobile storage units and temporary events.
- e. Any violation of Section 18-25, pertaining to mobile food establishments.

SECTION 23-8. FEES.

23-8-19	<u>Mobile Food Establishment Permit</u>	<u>\$500</u>
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