

Sumter City Council

2nd Reading
July 17, 2018

Planning Commission Staff Report

OA-18-03, Mobile Vending (City)

I. THE REQUEST

Applicant: Planning Staff

Request: Amend relevant portions Article 5, Section B: Specific Conditions and Standards for Conditional Uses and Special Exceptions; Article 5, Section C: Temporary Uses, and Article 10: Definition of the City of Sumter – Zoning & Development Standards Ordinance to make Food Trucks (Mobile Vending) a temporary use subject to annual review, expand the districts in which mobile vendors may operate, and expand the types of vehicles permitted to be used as mobile vending units.

II. BACKGROUND

This Ordinance Amendment seeks to expand the zoning districts where mobile vendors are permitted as well as to expand the types of vehicles permitted to be used as mobile vending units. As drafted, **the amendment adds mobile vending to the General Commercial (GC), Limited Commercial (LC), Light Industrial-Warehouse (LI-W) and Heavy Industrial (HI) zoning districts as a Temporary Use subject to annual permitting.** Additionally, the amendment allows mobile vendors to operate from a variety of food truck vehicles such as the ones shown on the following page—catering style food trucks and trailers that offer cooking space as well as refrigeration units in addition to traditional carts.

In the nine (9) years since the adoption of the City's mobile vending regulations, there has been an influx of mobile food retailers seeking to operate within Sumter's City limits. This has likely been spurred by the City-sponsored Food Truck Festival that has taken place on an annual basis and growing popularity of the industry nationwide.

Although the City sponsors a food truck festival, the current Ordinance language prohibits those same festival vendors from operating inside the City limits on a daily basis. A vast majority of the vehicles those mobile vendors operate from are classic food trucks, not hot dog carts.

Current ordinance language is narrowly tailored and only permits mobile vending from a hot dog-style cart which does not exceed four feet in width, six feet in length, and five feet in height, excluding canopy or cover. Said vendors are permitted as a conditional use in the General Commercial (GC) zoning district where there is a primary permitted use.





In 2012, Sumter County Council adopted a mobile vending ordinance that allowed a variety of types of commercially manufactured food trucks and trailers to operate within the GC, LC, LI-W, HI, and AC districts where there is an established primary permitted use. Instead of operating inside the city limits, many food truck operators seeking to do business in the Sumter Community have found locations within the County, or locate elsewhere outside of Sumter County.

The primary question is, does it make sense to expand mobile vending/food truck operations in the City beyond the General Commercial (GC) district? Other jurisdictions of similar size permit food trucks under a variety of conditions. Each regulation has clearly defined acceptable vehicle types, designated sales areas in the public right of way (i.e. on-street parking and sidewalk) or on publicly owned property in addition to private property—many of these designated on-street sales sites are in the downtown areas of the community, and separation standards from established brick and mortar food service establishments.

The following list outlines how other communities manage food truck businesses in terms of siting and location.

City of Greenville:

- Food trucks and mobile market food trucks are prohibited from operations on any street, sidewalk, alley, trail or other right of way or City owned property (plazas, parks etc.) unless approved by the City as part of a permitted special event or contracted with the

Parks and Recreation Department; or parked in a City designated food truck parking space within the assigned dates and times.

- Are permitted to operate on private property under the following conditions: no mobile food vendor shall operate within 250 ft. from the door of a lawfully established eating establishment that is actively open for business serving customers unless the food truck vendor provides documentation that the restaurant owner supports a closer proximity.
- Only permitted to operate from 8am to 10pm and must be removed from the property at the end of each business day.

City of Aiken:

- Mobile food vendors may be operating along a public street, right of way, sidewalk, or city-owned property under the following:
 - As part of a special event with permission of the department director responsible for oversight of the facility or location.
 - Cannot operate within 100 ft. of a permitted special event on public property or ROW while the event is in progress unless the vendor has written permission from the event organizer.
 - Cannot operate within a city park, playground, plaza or related facility unless written authorization is obtained from the responsible City Department director or designee.
 - May operate in specific locations within the public right of way as designated by City Council following a public hearing and recommendation from the Planning Commission.

City of Spartanburg:

- Downtown has six (6) city-owned locations designated for use by food trucks. Vendors must receive approval from Planning Staff. There is no limit on how often a food truck can operate downtown, but it may not use the same site more than once a week.

City of Anderson:

- Only permits carts and not food trucks. Carts are defined as: *any portable vending device, pushcart or other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the department of motor vehicles. Cannot exceed four feet in depth, ten feet in length, and five feet in height excluding canopy or cover...*
- Designated Vending district for mobile vendors is the area in front of the Anderson County Courthouse (Courthouse Square at 100 South Main Street)
- No more than 6 vendors can sell at any one time within the Courthouse Square.
- Cannot be located anywhere that does not provide clear passageway for pedestrians of at least four feet in width, and cannot be within 10 feet of an entrance to any building.

City of Greenwood:

- Private property only unless approved by the City as part of an authorized special event.
- Must be at least 750 ft. away from an established permanent restaurant use.
- Hours of operation from 7:00 am to 9:00 pm.

Food trucks and mobile vending are viable businesses that do not appear to be going away. There has been a growing interest from food truck business owners in opening up the City to a wider spectrum of mobile vending businesses. The how, where, and when these types of businesses are appropriate bears deeper discussion.

III. PLANNING COMMISSION – APRIL 25, 2018

The Planning Commission voted to refer this request to a meeting of the Committee of the Whole to discuss in further detail.

IV. COMMITTEE OF THE WHOLE – MAY 10, 2018

On May 10th, Planning Staff, City Downtown Development Staff, the City Special Events Coordinator, and members of the Planning Commission discussed mobile vending and food trucks in detail. Everyone was in agreement that current language is too restrictive. Discussion centered on the following options:

- 1) Leave the regulations unchanged
- 2) Adopt the same ordinance language that the County has adopted
 - This would open up mobile vending to classic food trucks and catering-style trucks, as well as add additional locations outside of the Broad St. corridor in which these businesses could operate.
 - This option takes the guess work out of whether or not a location is in the City or County, cutting down on frustration for operators seeking viable sites.
- 3) Adopt language similar to that of the County, but expand into the Central Business District (CBD)
 - Allow food trucks/carts to sell from private property or public right of way (street, sidewalk, pocket park) in specified locations within the CBD.

The Committee agreed that it makes perfect sense to adopt the same ordinance language that the County adopted in 2012—opening up mobile vending to food trucks in the GC, LC, LI-W, and HI districts, but had serious concerns about opening up City’s highest density commercial district, the Central Business District (CBD) to mobile vending/food trucks outside of bona fide special events.

The downtown is only three (3) blocks wide by four (4) blocks deep. The development pattern is such that there are few properties in the CBD of a size to allow food trucks to park and sell from private property where there is an established primary permitted use. Additionally, there are limited locations where food carts could safely sell from without blocking a public sidewalk. During the Commission’s discussion, the idea of a separation standard from established restaurant uses in the CBD was deemed by the Commission to not be practical at this time given the density of the district in relation to overall area.

At the conclusion of the meeting the Committee directed staff to draft an Ordinance Text Amendment that reflects the County's established regulations and zoning districts.

V. ORDINANCE AMENDEMENT

See Attachment 1.

IV. STAFF RECOMMENDATION

Based upon direction of the Planning Commission Staff recommends approval.

V. PLANNING COMMISSION – MAY 23, 2018

The Sumter City-Council Planning Commission at its meeting on Wednesday, May 23, 2018, recommended approval for this request.

VI. CITY COUNCIL – JUNE 19, 2018 – FIRST READING / PUBLIC HEARING

The Sumter City Council at its meeting on Tuesday, June 19, 2018, gave First Reading approval for this request.

VII. CITY COUNCIL – JULY 17, 2018 – SECOND / FINAL READING

ATTACHMENT 1

Strike Article 5, Section 5.b.3.r. Mobile Vendors and Concession Operators and amend to only stipulate produce sales as follows:

r. Mobile Produce Sales

1. Mobile Produce Sellers Shall be permitted under the following conditions:

- a. To operate on private property or on designated public property that is located within the GC zoning districts, and the cart and all items associated with any mobile produce selling operation must be removed from the premises during non-business hours.
- b. To operate only on property where there is located at least one active, permitted Primary Use. Under no circumstances shall a Mobile Vendor be issued a permit to operate on property that is uninhabited or vacant.
- c. To operate only within designated parking areas on private property only so long as the minimum parking requirements for the primary use located on the property are met, or within a designated Mobile produce sales area on a sidewalk or on private property where such designated Mobile produce sales areas are set aside expressly for the use. If the mobile produce seller is to be located within a designated Mobile produce sales area on private property, a zoning visit shall be required prior to the issuance of a permit to ensure that the size and location of the sales area is in conformity with all other requirements for the primary use, including parking, landscaping, ingress and egress, and vehicular circulation.
- d. To operate with the maintenance and use of a litter receptacle that is made available for the patrons' use. Excessive litter caused by product packaging or other associated products of the Mobile Vendor operation may result in revocation of zoning approval to operate.
- e. To operate only in a self-contained manner and without the utilization of any outside power source.
- f. To operate only with such signage as may be attached to the cart, vehicle, or device (not to exceed two (2) sq. ft.) and without any further signage used to advertise the business, including portable signs or signs affixed to any structure.
- g. To operate and to sell only such permitted merchandise as is listed herein. Permitted merchandise shall be limited to produce meaning fresh fruits, vegetables, and other plant materials or plant by-products such as herbs, spices, edible mushrooms, and honey. Items specifically banned from being

sold by Mobile produce sellers include, cigarettes, cigars, and any product containing tobacco.

- h. The sale of produce from a cart or vehicle such as a truck is permitted so long as the produce remains in the vehicle until sold. No produce may be sold from a tractor trailer.
- i. To operate only with the appropriate licensing as required by SC-DHEC and the Sumter City Business License Department, including a background check and any other requirements for Mobile produce sales operations of the City, County, and the State of South Carolina.
- j. To operate upon written permission of the property owner.
- k. To operate only when all conditions listed have been met. There shall be no temporary licensing of Mobile produce sellers until such conditions are met. Only duly licensed operators shall be permitted.

Amend Section 5.c.6. Permitted Temporary Uses as follows:

Add subsection 'j' as follows:

j. Mobile Vendors and Concession Operators

- 1. Concession Operators are allowed only during special events such as festivals, carnivals, and city-wide celebrations and shall be permitted directly by the Business License Department without any additional information from the Planning Department.
- 2. Mobile Vendors shall be eligible for Temporary Use under the following conditions:
 - a. To operate on private property or on designated public property that is located within the GC, LC, LI-W, and HI zoning districts only. The vending vehicle and all items associated with any mobile vending operation shall be removed from the premises during non-business hours.
 - b. To operate only with the maintenance and use of a litter receptacle that is made available for the patrons' use. Excessive litter caused by product packaging or other associated products of the Mobile Vendor operation may result in revocation of zoning approval to operate.
 - a. Mobile Vendors shall only operate on a property on which there is located at least one active, permitted Primary Use (Business).

Under no circumstances shall a Mobile Vendor be issued a permit to operate on property that is the site of an uninhabited/vacant structure, nor shall a

Mobile Vendor be issued a permit to operate on a vacant/undeveloped lot or property.

- b. To operate and to sell only such permitted merchandise as is listed herein. Permitted merchandise shall be limited to reading material such as newspapers, magazines, and books; produce; and ready-to-eat items and finger foods such as hot dogs, sausages, hamburgers, tacos, burritos, baked potatoes, bagels, pastries, candy, prepackaged sandwiches, cookies, chips, biscuits, popcorn, nuts, pretzels, ice products, ice cream, milk products, frozen yogurt, hot and cold beverages containing no alcohol, flowers, and items related to permitted merchandise. Items specifically banned from being sold by mobile vendors include cigarettes, cigars, and any product containing tobacco.
- c. To operate with the appropriate licensing as required by SC DHEC and the Sumter City-County Business License Department, including a background check and any other requirements for Mobile Vendor operations for the City of Sumter, Sumter County, and the State of South Carolina. It is at the discretion of the Zoning Administrator to deny a Temporary Use permit due to a felony criminal record.
- d. Upon written permission of the property owner.
- e. Upon submittal of a picture of the mobile vending unit along with a drawing showing the proposed location for set up on the property under review.
- f. Unit shall be an approved, commercially manufactured (not homemade) commercial Mobile Food Unit as defined in Article 10. All units shall be required to meet all SC DHEC regulations and shall provide proof of inspection approval from SC DHEC.
- g. Signage, for such purposes of this Ordinance, means a manufactured banner or rigid sign which is attached to a mobile food unit and may not exceed 32 sq. ft.

Unattached banners or rigid signs are not permitted.

Words and decorations painted onto a Mobile Food Unit and the vehicle used to transport a Mobile Food Unit trailer are not considered signage for the purposes of this ordinance, so long as all other requirements of this section are met.

- h. Temporary Use for each location shall be renewed annually.

- i. Temporary use permit will be issued only when all conditions listed have been met. There shall be no temporary licensing of Mobile Vendors until such conditions are met. Only duly licensed operators shall be permitted.

Amend Article 10, Section 10.b.1 to strike the definition for “Cart” and add definitions for Mobile Food Unit as follows:

Mobile Food Unit: All mobile food units shall be manufactured for the express purpose of mobile food vending. Mobile vending shall be from a commercially manufactured (not homemade) commercial grade cart or vehicle of a type outlined below/

1. **Cart** – any portable vending device, pushcart or other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Department of Motor Vehicles, used for the displaying, storing or transporting of articles offered for sale by a vendor. Carts come in two varieties, those which the operator stands on the ground or those which the operator stands inside the cart. Typically there is not electric or mechanical refrigeration associated with the cart.
2. **Frozen food truck/cart** – a mobile motorized or non-motorized concession on wheels that normally contains a commercial freezer. All products served are frozen and prepackaged.
3. **Soft serve ice cream truck** – a motorized vehicle that has a soft serve ice cream machine on board along with toppings and contains: commercial refrigerators/freezers that are permanently affixed inside the truck; sink systems that are large enough to handle all items that must be washed/rinsed/sanitized in the concession to include a three-compartment sink with a faucet; hand washing sink with faucet, and a water system that can handle the hot water needs of the food service; there must also be adequate food/dry goods storage; and adequate wastewater storage tank.
4. **Catering Type Truck** – a motorized truck that carries prepackaged and non-prepackaged hot and cold type foods. Catering trucks that have a commercial grill, soup warmer, and/or undertake on-site food preparation must provide sink systems that are large enough to handle all items that must be washed/rinsed/sanitized in the concession to include a three-compartment sink with a faucet; hand washing sink with faucet, and a water system that can handle the hot water needs of the food service; there must also be adequate food/dry goods storage; adequate wastewater storage tank.