



MEMORANDUM

CITY ATTORNEY

TO: Mayor and City Council

THROUGH: Judi Baumann, City Attorney
Andrew Ching, City Manager

FROM: Chuck Cahoy, Deputy City Attorney
Jeff Kulaga, Assistant City Manager
Shelley Hearn, Community Services Director

RE: Draft Food Truck Ordinance Changes

DATE: June 10, 2014

BACKGROUND:

In response to the City Council's direction to ensure that operation of food trucks in Tempe is not burdened by unnecessary regulation, staff reviewed the current ordinances and suggested revisions. These proposed revisions addressed food truck operations on public streets and on city property. No revisions were proposed for food truck operations on private property or as part of a special event.

To gain public input, the proposed revisions were shared on the city's online survey tool, Tempe Forum, in May. A total of 85 viewpoints were received, with 53 coming from Tempe residents and 17 from Tempe business owners. A list of the received viewpoints is attached. In addition, staff met with representatives from the Arizona Restaurant Association, Food Truck Coalition, Chamber of Commerce and Downtown Tempe Community to discuss the proposed revisions.

Based on this input, staff proposes the following actions relating to food truck operations in Tempe:

Food Truck Operation on City Property:

Under existing ordinances, competitive bids may be used to procure vendors to operate food trucks on city-owned property. It is proposed that a procurement process be used to have a list of qualified vendors available for city-sponsored special events and operation on city-owned property. Such vendors will be required to hold a Mobile Merchant License and a Privilege License. Establishing designated days and hours for such vendors at certain City properties, such as the library and possible downtown locations, will be considered. Selected vendors might also be requested to operate during selected City-sponsored special events. Procurement documents will establish other operating parameters.

If it proves useful to have such vendors available to the City, the procurement and list of available vendors will be updated on a regular basis.

Food Truck Operation on Public Streets: The following table summarizes the suggested ordinance changes; the language in red indicates changes since this table was presented to Council at the 4/7/2014 COW meeting:

EXISTING REGULATORY STRUCTURE	PROPOSED REGULATORY STRUCTURE
<ul style="list-style-type: none"> Mobile Merchant License and Privilege License required 	<ul style="list-style-type: none"> No change
<ul style="list-style-type: none"> Prohibited from operating on arterial streets; shall comply with all parking restrictions 	<ul style="list-style-type: none"> No change
<ul style="list-style-type: none"> No current provision 	<ul style="list-style-type: none"> Prohibited from operating on public street in downtown improvement district (“ID”) due to traffic congestion. No prohibition on operating downtown on private property; must comply with all land use requirements, etc.
<ul style="list-style-type: none"> Prohibited from operating on or within 500 feet of the same location on a public street for more than one hour in an eight-hour period 	<ul style="list-style-type: none"> Prohibited from operating on or within 500 feet of the same location on a public street for more than FOUR three hours in an eight-hour period
<ul style="list-style-type: none"> Prohibited from operating within 500 feet of school grounds from one-half hour before school begins until one-half hour after school ends (the ASU campus is excluded from the school distance requirement) 	<ul style="list-style-type: none"> No change
<ul style="list-style-type: none"> The mobile merchant applicant and each of the employees undergo a fingerprint and criminal background check 	<ul style="list-style-type: none"> The mobile merchant applicant will undergo a fingerprint and criminal background check; other employees may undergo fingerprint and criminal background check; truck may not operate without at least one such security-checked person being present.
<ul style="list-style-type: none"> No limit on operating hours 	<ul style="list-style-type: none"> May only operate in residential areas between the hours of 7:00 a.m. and 10 p.m.
<ul style="list-style-type: none"> Existing fee structure: Mobile merchant permit application fee: \$100 Annual permit fee: \$50 Annual truck decal fee: \$50 Annual Mobile Merchant Identification Card fee: \$5 for each employee Fingerprinting of all operators/employees: direct cost 	<ul style="list-style-type: none"> Application fee: \$100 Annual license fee: \$100 Fingerprinting of any operators/employees: direct cost
<ul style="list-style-type: none"> No current provision 	<ul style="list-style-type: none"> As a part of licensing, require signature of applicant on “good neighbor policy,” modeled after current City of Gilbert ordinance¹

¹ Town of Gilbert: Good Neighbor Principles

The Town of Gilbert is known as a clean, safe and vibrant community. As Gilbert gains national recognition for being a wonderful place to live and work, these Good Neighbor Principles will enhance the efforts to bring family activities to the community. The Town encourages everyone to be a good neighbor in keeping Gilbert clean, safe, vibrant and respecting public and private property, while adding to the current mix of businesses. The Good Neighbor Principles include:

- 1.) Keeping Gilbert a safe place.
- 2.) Keeping Gilbert clean and well maintained.
- 3.) Respecting public and private property.
- 4.) Manage potential impacts to adjacent or nearby establishments and residents such as noise, lighting, parking, and trash.
- 5.) Being accountable, available, and responsive, as reasonable, to community comments and concerns

Food Truck Operation on Private Property: Food trucks are permitted to operate on private property where a Use Permit has been obtained by the owner of the property. The food truck as a business is required to hold a Privilege License in order to operate. No change is proposed.

Although no change is being proposed at this time, comments recently received from the Arizona Restaurant Association assert that Use Permits do not work well in this situation because of the difficulty in enforcement. They suggest a “simple over-the-counter” permit could be issued to the operator, showing that a temporary zoning variance has been issued and that the operator has registered its location with the City. Staff continues to explore this option.

Food Truck Operation at Special Events: Food trucks are able to operate at events within the City under a Special Event Permit. A Privilege License is required for this activity. No change is proposed.

Staff will continue to refine these proposals during the summer break with continued stakeholder involvement and return to City Council at the August Committee of the Whole or Issue Review Session.