

A HUNGRY INDUSTRY ON ROLLING REGULATIONS: A LOOK AT FOOD TRUCK REGULATIONS IN CITIES ACROSS THE UNITED STATES

Crystal T. Williams, Esq.

- ABSTRACT
- I. INTRODUCTION
- II. REGULATIONS GOVERNING THE FOOD TRUCK INDUSTRY
- A. *Some Cities Have Stringent Regulations That were Originally Intended to Regulate Ice Cream Trucks*
 - B. *Some Cities are Only Lightly Regulated with Few Regulations in Place for Mobile Food Vendors*
 - C. *Some Cities Are Experiencing Great Change in Their Regulations to Accommodate Mobile Food Units*
 - D. *Some Cities have Written Clear and Specific Ordinances Regulating Contemporary Food Trucks*
- III. CONCLUSION

A HUNGRY INDUSTRY ON ROLLING REGULATIONS: A LOOK AT FOOD TRUCK REGULATIONS IN CITIES ACROSS THE UNITED STATES

*Crystal T. Williams, Esq.**

ABSTRACT

Although street vending has always been a part of the American food economy, in recent years modern food trucks have become a dining trend that is sweeping the country. With the booming popularity of food trucks, cities across the country are serving up various ways to regulate the growing number of vendors selling convenient and creative meals to patrons from mobile food units, commonly known as food trucks. Food trucks are regulated by local government agencies, which take a wide range of approaches. For example, in thirty-four of the nation's largest cities, entire neighborhoods are off-limits to vendors, often including the most desirable commercial districts. Nineteen cities allow mobile vendors to stay in one spot for only short periods of time, forcing them to spend resources moving rather than selling. Five cities prevent vendors from stopping at all unless flagged by a customer, making it difficult to connect with buyers.

Despite the wide range of regulations, food trucks have become highly popular and financially successful, offering a wide variety of food options to consumers. This Essay will analyze the different types of regulations, from strict to lenient to in-transition, that govern food trucks in localities across the United States. More specifically, it will look at cities with stringent regulations, such as Chicago, Illinois, and Dallas, Texas; cities with only a few regulations, such as Indianapolis, Indiana, and Philadelphia, Pennsylvania; cities undergoing change, such as Washington, D.C., and Jersey City, New Jersey; and cities with food-truck-specific regulations, such as Portland, Oregon, and Los Angeles, California. City leaders are discovering that regulating this industry involves many competing interests. The challenges lie in balancing those interests with the need to regulate food safety and traffic safety—without creating too many roadblocks to this new and popular food industry.

I. INTRODUCTION

Street vending likely conjures up visions of hot dog carts, ice cream trucks, and roasted peanut vendors, which have been a part of the American food scene for generations. A new mobile food trend has appeared in recent years: food trucks. From Los Angeles, California, to St. Paul, Minnesota, to Boston, Massachusetts, food trucks are rolling up to the curb, reaching consumers looking for convenient and creative meals. Even television shows such as “Eat Street” and “The Great Food Truck Race” have highlighted the thriving businesses.

Food trucks developed from the larger industry of street vending, including hot dog vendors and merchandise sellers. Historically, street vending has been a fixture of urban life, providing economic opportunities for many small businesses,

especially immigrants and people with little income.¹ In fact, even today, 95% of New York City street vendors are immigrants, each supporting an average of four or five people domestically and in their homelands.² Street vending is a growing industry with over 760,000 street vending businesses operating in the United States in 2007, earning revenues over \$40 billion.³

A food truck is a mobile, miniature commercial kitchen that must meet the same state sanitation requirements as a brick-and-mortar restaurant, as well as be in compliance with additional local ordinances.⁴ The combination of low start-up costs, the ability to prepare food while mobile, and the utilization of social media has contributed to food truck success. The estimated cost to start a food truck is significantly less than the estimated amount of capital necessary to launch a restaurant.⁵ By taking advantage of the relatively low costs, food trucks are able to sell inexpensive, yet creative foods. Furthermore, they have gained momentum through social media, announcing their current locations via Facebook and Twitter. Thus, the mobile food industry has become hip and innovative, with many upscale options.

Food truck operation is not an endeavor limited to small-business owners and entrepreneurs. Established restaurants have pursued food trucks as a way to market new menu items, fundraise for organizations, or bring convenient lunches to consumers.⁶ Food trucks offer opportunities for food vendors of all shapes and

* Crystal T. Williams is an associate attorney at Barnes & Thornburg, LLP, in Indianapolis, Indiana. Williams concentrates her practice in general litigation, with a focus of food law. Williams has experience advising clients in food labeling disputes (e.g. health, nutrient content and structure/function claims, allergens, Nutrition Facts, and menu labeling) and food advertising strategy (e.g. weight management, advertisements geared toward children, competitive advertisements). Williams also has experience advising clients in the food truck industry (as well as restaurants and food servicers looking to get into the food truck industry) to help them navigate the applicable local and city-specific ordinances that govern food truck dimensions, construction, licenses, permitting, food preparation, and parking.

1. Robert Frommer, et al., *Streets of Dreams: How Cities Can Create Economic Opportunity By Knocking Down Protectionist Barriers to Street Vending*, INST. FOR JUST. 7 (July 2011), http://www.ij.org/images/pdf_folder/economic_liberty/atl_vending/streetsofdreams_webfinal.pdf.

2. Oral Panel Discussion at 16:33, 27:23, *Street Food: An Important (and Delicious) Part of Urban Life*, INST. FOR JUST. (Apr. 14, 2012) available at <http://www.ij.org/my-streets-my-eats-symposium>.

3. Frommer, et al., *supra* note 1, at 5.

4. *Frequently Asked Questions*, D.C. FOOD TRUCK ASS'N, <http://dcfoodtrucks.org/myths.html> (last visited Jan. 18, 2013).

5. See Ray Bromley, *Street Vending and Public Policy: A Global Review*, 20 INT'L J. SOC. & SOC. POL'Y 1, 5 (2000) (citing relatively cheaper costs as one attraction of the food truck business over restaurants); Rich Mintzer, *Food Trucks 101: How to Start a Mobile Business*, ENTREPRENEUR (July 25, 2011), <http://www.entrepreneur.com/article/220060> (estimating the average start-up cost for a food truck at \$75,000); Maureen Farrell, *How to Run A Restaurant: Start-Up Costs* FORBES.COM (Feb. 2, 2007), http://www.forbes.com/2007/02/02/visa-american-express-ent-manage-cx_mf_0202fundamentalscosts.html (placing the average start-up cost for a restaurant at \$100,000 to \$300,000).

6. On July 1, 2012, the Taco Bell truck paid a visit to a small town in Alaska and gave away 10,000 free tacos, drawing significant media attention. Tiffany Hsu, *Taco Bell Helicopters 10,000 Tacos to Bethel, Alaska After Hoax*, L.A. TIMES (July 3, 2012), <http://www.latimes.com/business/money/la-fi-mo-taco-bell-alaska-20120703,0,4812897.story>; *Now Serving #DoritosLocosTacos in Bethel*, TWITTER (July 1, 2012).

sizes, but one factor that unites them all is the need to adhere to local regulations. The first step toward breaking into the food truck industry is becoming knowledgeable about the applicable regulations.

II. REGULATIONS GOVERNING THE FOOD TRUCK INDUSTRY

Confusing and outdated regulations in some regions have posed challenges for potential vendors and consumers.⁷ For example, in thirty-four of the nation's largest cities, entire areas are off-limits to vendors, often including the most desirable commercial districts.⁸ Nineteen cities allow mobile vendors to stay in one spot for only short periods of time, forcing them to spend resources moving rather than selling.⁹ Five cities prevent vendors from stopping at all unless flagged by a customer, making it difficult to connect with buyers.¹⁰

Despite the wide range of regulations, cities throughout the nation have seen food trucks become highly popular and financially successful, offering a large variety of food options to consumers. The first step in launching a successful food truck is building a knowledge base about local regulations in order to make well-informed business decisions.

<https://twitter.com/TacoBell/status/219552512854867970/photo/1> (identifying the date of the air drop). Fazoli's has taken its popular breadsticks on the road this summer to fifteen cities across the country to "raise awareness and funds" for the childhood hunger charity Feed the Children. Mark Brandau, *New Fazoli's Food Truck to Tour U.S.*, NATION'S RESTAURANT NEWS (June 18, 2012), <http://nrm.com/article/new-fazolis-food-truck-tour-us>. Similarly, Dairy Queen's "Blizzardmobile" toured 25 cities to raise money for the Children's Miracle network. *Dairy Queen Launches Mobile Truck*, QSR WEB (Apr. 6, 2010), <http://www.qsrweb.com/article/95669/Dairy-Queen-launches-mobile-truck>. On July 9, 2012, Chick-Fil-A launched its first food truck in Washington, D.C. and sold over 400 meals by mid-afternoon. Tim Carman, *Chick-Fil-A Muscles into the D.C. Food Truck Scene*, WASH. POST (July 9, 2012), http://www.washingtonpost.com/blogs/all-we-can-eat/post/chick-fil-a-muscles-into-the-dc-food-truck-scene/2012/07/09/gJQAx2c0YW_blog.html. Other restaurant-owned food trucks include Jack in the Box's "Jack's Munchie Mobile" in San Diego, *Shorts: Jack in the Box Joins Food-Truck Craze*, WALL ST. J. (Mar. 18, 2011), <http://online.wsj.com/article/SB10001424052748703818204576206672545425878.html>; Sizzler's "ZZ Truck" in Los Angeles, ZZ TRUCK, <http://zzfoodtruck.com/> (last visited Jan. 21, 2013); Qdoba's "Queso Quest" in Chicago, *Qdoba's Queso Quest: A Food Truck Bringing Free 3-Cheese Queso to Your Neighborhood*, THRILLIST (Aug. 30, 2011), <http://www.thrillist.com/node/2341250>; and Applebee's truck in Denver, Patricia Calhoun, *Applebee's Rolls Out a Food Truck—Yes, Applebee's*, DENVER WESTWORD (Aug. 5, 2011), <http://blogs.westword.com/cafesociety/2011/08/applebees-food-truck.php>.

7. Frommer, et al., *supra* note 1, at 8.

8. Cities with restricted zones include the following: Albuquerque, NM; Charlotte, NC; Chicago, IL; Cleveland, OH; Denver, CO; El Paso, TX; Fresno, CA; Honolulu, HI; Houston, TX; Jacksonville, FL; Kansas City, MO; Long Beach, CA; Los Angeles, CA; Louisville, KY; Memphis, TN; Milwaukee, WI; Minneapolis, MN; Nashville, TN; New York, NY; Oakland, CA; Oklahoma City, OK; Philadelphia, PA; Phoenix, AZ; Raleigh, NC; Sacramento, CA; San Antonio, TX; San Diego, CA; San Francisco, CA; San Jose, CA; Seattle, WA; Tucson, AZ; Tulsa, OK; Virginia Beach, VA; and Washington, D.C. *Id.* at 16.

9. Cities with duration restrictions include the following: Atlanta, GA; Baltimore, MD; Charlotte, NC; Chicago, IL; Columbus, OH; Dallas, TX; Fort Worth, TX; Jacksonville, FL; Las Vegas, NV; Long Beach, CA; Memphis, TN; Milwaukee, WI; Omaha, NE; Phoenix, AZ; Portland, OR; Sacramento, CA; San Jose, CA; Tucson, AZ; and Virginia Beach, VA. *Id.*

10. Cities with stop-and-wait restrictions include the following: Fresno, CA; Louisville, KY; Memphis, TN; Miami, FL; and Washington, D.C. *Id.*

*A. Some Cities Have Stringent Regulations
That were Originally Intended to Regulate Ice Cream Trucks*

In response to the onset of food trucks, some cities have applied their existing regulations that were initially put in place for ice cream trucks. As a result, many of these cities have strict regulations, such as rules prohibiting vendors from being in certain places or requiring vendors to constantly be on the move as would be expected for ice cream trucks.¹¹

Until recently, the food truck regulations in Chicago, Illinois, were among the most stringent in the country. Chicago food vending regulations were initially intended to regulate ice cream trucks, even requiring that “all ice milk mix or other frozen dessert mix shall be obtained from sources approved by the Department of Health and shall be frozen not later than nine days from the date of pasteurization.”¹² Until recently, the reliance on old ordinances continued because of concerns about the freshness of food, as well as traffic congestion.¹³ However, food trucks were required to meet the same sanitation requirements of all sellers of food, and a mostly pedestrian market makes traffic congestion unlikely.

Unlike most cities, Chicago initially banned mobile food preparation and only allowed the sale of already prepared and packaged foods.¹⁴ As a result, a hot dog vendor could not put Chicago-style toppings on a hot dog at the cart, nor could a taco truck top its tacos with fresh salsa for customers. Instead, all items had to be prepackaged, resulting in the disposal of many plastic containers. On July 19, 2012, the Chicago City Council approved an expansion of the city’s mobile food ordinance to allow truck owners to prepare “food to order” on board their trucks.¹⁵ The expanded ordinance further provides food truck operators the “opportunity to park for free in newly created ‘food truck stands’ in highly congested areas, as well as at legal metered spaces.”¹⁶

Under the previous ordinance, Chicago mobile vendors were not allowed to sell food for more than two hours on any one block or sell between the hours of 10:00 p.m. and 10:00 a.m.¹⁷ Although the two-hour limit still applies, the new ordinance expands the time of operation and enables food trucks in Chicago to operate from 5:00 p.m. to 2:00 a.m.¹⁸ However, food trucks may not operate

11. Among those cities with stringent food truck regulations are the following: Dallas, TX; Jacksonville, FL; Long Beach, CA; Louisville, KY; Memphis, TN; Oakland, CA; Phoenix, AZ; San Antonio, TX; Virginia Beach, VA. *Id.*

12. Chi., Ill., Board of Health Rules and Regulations Pertaining to Mobile Food Dispensers, available at <http://webapps.cityofchicago.org/healthinspection/docs/BoHFoodRegs.pdf>.

13. See Caroline O’Donovan, *Deregulating the Mobile Food Industry*, CHICAGOIST (Apr. 18, 2012), http://chicagoist.com/2012/04/18/deregulating_the_mobile_food_indust.php.

14. CHI., ILL., MUN. CODE ch. 7-38, art. II, part A, § 7-38-085, available at [http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/municipalcodeofchicago?fn=altnf.htm&f=templates\\$3.0\\$vid=amlegal:chicago_il](http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/municipalcodeofchicago?fn=altnf.htm&f=templates3.0vid=amlegal:chicago_il) (repealed July 25, 2012).

15. See Press Release, Office of the Mayor, City Council Approves Mobile Food Ordinance to Expand Food Truck Indus. Across Chi. (July 25, 2012) available at <http://www.cityofchicago.org/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2012/July/7.25.12ApproveFoodTrucks.pdf>.

16. *Id.*

17. Art. II, part A, § 7-38-115(c) (repealed July 25, 2012).

18. See Press Release, *supra* note 15.

within 200 feet of a restaurant.¹⁹ In a dense city like Chicago, this may amount to a virtual ban from downtown, requiring intimate knowledge of where vendors can lawfully operate.

Thus, opinions are slowly changing. The president of the Illinois Restaurant Association, who once advocated for strict limits on where food trucks could sell, has recently expressed a desire “to come to a solution that is mutually beneficial to all of the business owners involved.”²⁰ In Illinois, there is no universal position of the restaurant industry; some restaurant owners oppose food trucks while other restaurant owners own and operate food trucks.²¹ As food trucks become increasingly popular and as established restaurants become involved in the new market, cities will likely relax their regulations.

Dallas, Texas, is another city with relatively strict regulations.²² The trucks may vend in the Central Business District after acquiring a specific concession license only valid for up to five sites.²³ The number of licenses to be issued can be limited at the discretion of the Director of the Restaurant and Bar Inspection Division based on “factors related to the public health, safety, and welfare.”²⁴ In the Arts and Warehouse District, food trucks cannot occupy a location for more than two consecutive hours, or more than four hours in any one day.²⁵ Upon relocation, the trucks must move at least fifty feet.²⁶ Another limitation on location is a rule forbidding trucks from selling within two city blocks or 600 feet of a school from 7:30 a.m. to 4:30 p.m. on school days.²⁷ Food truck business operation, in general, is limited to between the hours of 6:00 a.m. and 8:00 p.m.²⁸

Dallas food truck operators must maintain good relations with private property owners. To operate on private property, they must have written authorization from the owner for the specific times of operation, as well as an agreement to use toilet facilities or garbage receptacles located within 600 feet of the mobile food vehicle.²⁹

Although its regulations are stringent, Dallas has recently made some changes to relaxe key provisions. For example, in June 2011, the City Council relaxed itinerary requirements by allowing trucks to submit a single general itinerary with the Department of Code Enforcement, rather than submitting one each month with

19. *Id.* Food trucks must also use mounted GPS devices in each truck so that the city and consumers can monitor their locations. *Id.*

20. Monica Eng, *Food Entrepreneurs Grow Sweet on Emanuel*, CHI. TRIB. 2 (Sept. 28, 2011), http://articles.chicagotribune.com/2011-09-28/news/ct-met-chicago-food-policies-20110928_1_food-trucks-matt-maroni-food-carts.

21. Sheila O’Grady, *Op-Ed: City Needs New Mobile Food Vendor Ordinance*, CRAIN’S CHICAGO BUSINESS (Jan. 30, 2012), <http://www.chicagobusiness.com/article/20120128/ISSUE07/301289987>.

22. Street vendors are regulated by chapter 50 of the City Code, which governs Consumer Affairs, as well as chapter 17 of the City Code, which governs Food Establishments.

23. DALL., TEX., CITY CODE § 50-159.1(a) (2012) available at [http://www.amlegal.com/nxt/gateway.dll/Texas/dallas/volumei/preface?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:dallas_tx](http://www.amlegal.com/nxt/gateway.dll/Texas/dallas/volumei/preface?f=templates$fn=default.htm$3.0$vid=amlegal:dallas_tx).

24. *Id.*

25. *Id.* § 50-161(2),(4).

26. *Id.* § 50-161(3).

27. *Id.* § 50-160(12).

28. *Id.* § 50-160(9).

29. *Id.* § 17-8.2(h)(2)(A).

addresses and arrival times within 30 minutes.³⁰ In December 2011, the City Code was amended to “allow a retrofitted or converted vehicle to be used as a mobile food preparation vehicle,” whereas before only vehicles originally designed to be food trucks could operate.³¹

Dallas and Chicago show that, even among those cities with the strictest regulations, food trucks are continuing to operate while exercising growing influence over local government decisions.

*B. Some Cities are Only Lightly Regulated
with Few Regulations in Place for Mobile Food Vendors*

Because the food truck market has expanded so rapidly, some cities have found themselves without many regulations directly applicable to the operation of food trucks.³² As a result, they often simply require that mobile vendors meet the city’s basic sanitation requirements.

One example of a city with few food truck regulations is Indianapolis, Indiana. The Indianapolis Department of Code Enforcement, the body responsible for issuing permits and licenses for vendors who serve customers on the sidewalks of Indianapolis, has released a one-page document compiling mobile food truck operating restrictions.³³ According to this document, food trucks must comply with the Food Vending Vehicle ordinance, Section 611-500 of the Revised Code for the Consolidated City of Indianapolis.³⁴ Among the restrictions on food trucks is a prohibition from selling food between the hours of 10:00 p.m. and 6:00 a.m. in the public right of way, and from selling between the hours of 7:00 a.m. and 4:00 p.m. on school days within 1,000 feet of a grade or junior high school.³⁵ The vehicle must be legally parked, and all sales must be made from the curbside.³⁶ Indicative of the initial purpose to govern ice cream vendors, several subsections regulate audible advertising and safety equipment, such as stop signs and flashing lights.³⁷

Indianapolis has seen significant growth in the number of food trucks, likely due to the lack of stringent regulations beyond meeting traditional sanitation

30. Memorandum from Joey Zapata, Interim Assistant City Manager, on Mobile Food Preparation Vehicles Briefing, to Members of the Quality of Life Comm. and Members of the Dall. City Council (Oct. 24, 2011), available at http://www.dallascityhall.com/committee_briefings/briefings1011/QOL_MobileFoodPrepVehicles_102411.pdf.

31. *Agenda Item # 90: Before the Dallas, Tex. City Council* (Dec. 14, 2011), available at http://www.dallascityhall.com/council_briefings/agendas_1211/FinalAgenda_12142011.pdf.

32. Among those cities with few food truck regulations are the following: Arlington, TX; Boston, MA; Colorado Springs, CO; Detroit, MI; Indianapolis, IN; Mesa, AZ; Philadelphia, PA. See Frommer, et al., *supra* note 1, at 16.

33. *Mobile Food Regulation: Mobile Food Truck Operating Restrictions*, CITY OF INDIANAPOLIS AND MARION COUNTY, <http://www.indy.gov/eGov/City/DCE/Licenses/BusinessLicensing/Documents/Vendor%20Cart%20Docs/Mobile%20Food%20Online.pdf> (last visited Jan. 26, 2013).

34. *Id.*

35. INDIANAPOLIS, IND., MUNICIPAL CODE ch. 611, art. V, § 501 (1998), available at <http://library.municode.com/index.aspx?clientId=12016>.

36. *Id.* § 506.

37. *Id.* §§ 502-04.

requirements.³⁸ The first food truck in Indianapolis began operating in June 2010.³⁹ By the spring of 2011, there were twenty-one food trucks operating within the city.⁴⁰ Just one year later, there were thirty-seven food trucks selling a variety of food in Indianapolis.⁴¹ In fact, Indianapolis has been identified as a top growth spot for the food truck business, along with Minneapolis, Philadelphia, Raleigh, and Tampa.⁴² Furthermore, licensed commercial kitchens in Indianapolis provide shared space for trucks to rent hourly and use as a base for their food preparation.⁴³

Philadelphia, Pennsylvania, is another location with few regulations specifically meant to regulate food trucks. Mobile food units in Philadelphia are regulated by the Office of Food Protection and Title 9 of the Philadelphia Code, which regulates Businesses, Trades and Professions. Section 9-203 consists of merely sixteen rules prohibiting the activity of street vendors and a few requirements.⁴⁴ For example, a food truck shall not “create or become a nuisance, or increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police, or sanitation vehicles.”⁴⁵ The trucks are also prohibited from selling between midnight and 7:00 a.m.⁴⁶ The trucks must pay an annual fee of \$2,750 to “reimburse the City for the loss of parking meter revenue and for the additional cost of regulation.”⁴⁷

In cities such as Indianapolis and Philadelphia, the small number of regulations means food truck operators know what is required of them and can run their business with significant freedom and flexibility.

C. Some Cities Are Experiencing Great Change in Their Regulations to Accommodate Mobile Food Units

Cities have responded to the so-called “food truck revolution” in a variety of ways, each with different timelines. In many cases, consumers and food truck operators have pressured local governments to issue regulations appropriate to the

38. Ron Ruggless, *Food Trucks: Possibilities and Pitfalls to Consider*, NATION'S RESTAURANT NEWS (May 6, 2012), <http://nrrn.com/corporate/food-trucks-possibilities-and-pitfalls-consider>.

39. See Scott Olson, *Indy Taco-Truck Business Rolling into Other Cities*, INDIANAPOLIS BUS. J. (June 20, 2011), <http://www.ibj.com/indy-tacotruck-business-rolling-into-other-cities/PARAMS/article/27823>.

40. C. Robert Dillon, *Indy Food Trucks: How to Keep Track of Your Favorite Food Truck*, WISH-TV, http://www.wishtv.com/dpp/indy_style/taming-technology-indianapolis-food-trucks (last updated Aug. 30, 2011, 11:05 AM).

41. *Food Trucks in Indianapolis—An Insider's Guide*, VISITINDY.ORG, <http://visitindy.com/indianapolis-food-trucks-indianapolis> (last visited June 6, 2012) (listing Indianapolis food trucks); see also *Follow Indy Food Trucks*, TWITTER, <http://twitter.com/visitIndy/indy-food-trucks/members> (last visited June 6, 2012) (claiming 37 members).

42. Ruggless, *supra* note 38.

43. E.g., INDY'S KITCHEN, <http://www.indyskitchen.com> (last visited June 6, 2012).

44. PHILA. PA. CODE § 9-203(7) (2013).

45. *Id.* § 9-203(7)(d).

46. *Id.* § 9-203(7)(l).

47. *Id.* § 9-203(8)(c).

mobile food business model, over the objections of some restaurant owners.⁴⁸ Thus, a number of cities have spent months or even years proposing changes to regulations.⁴⁹

One city that has received significant media attention regarding its impending changes to food truck regulations is Washington, D.C. In 2012, Vincent Gray, the mayor of Washington, D.C., proposed rules to update the thirty-five year old regulations governing food trucks, which were “intended for ice cream trucks and did not foresee social media playing such a vital role.”⁵⁰ The old rules, still being applied, allow food trucks to stop only when hailed by a customer and to remain open only if there is a constant line of customers.⁵¹ Under the proposed rules, non-dessert trucks would have exclusive access to certain designated Mobile Roadway Vending locations;⁵² and, if a truck operates outside those zones, it would be permitted to remain in a location for the duration allowed by the parking meter or posted parking regulations.⁵³ However, dessert trucks would still be limited to ten minutes without waiting customers.⁵⁴ Food trucks would still be required to close at 10:00 p.m. on weekdays and 1:00 a.m. on weekends.⁵⁵

According to the proposed rules, food trucks would continue to be expected to meet all of the food preparation and handling standards articulated in Title 25 of the District of Columbia Municipal Regulations governing food operations and facilities, including inspections and approval from the Department of Health.⁵⁶ In addition, they would need to comply with the maximum dimensions of vending vehicles.⁵⁷ They would also be required to have a thirty-eight-gallon or larger fresh water tank, a waste water tank, a three-compartment sink, a generator-powered refrigerator to store foods at forty-one degrees or below, a generator-powered freezer to store foods at zero degrees or below, and adequate ventilation.⁵⁸

48. Among those cities with movements to revise food truck regulations are the following: Grand Rapids, MI; Jersey City, NJ; Peoria, IL; New Orleans, LA; Sacramento, CA; Salt Lake City, UT; and Washington, D.C.

49. Jersey City, New Jersey has been considering different versions of proposed food vending regulations since August of 2009. See Memorandum from William C. Matsikoudis to the Municipal Council (Apr. 21, 2011), available at <http://www.scribd.com/doc/53959183/Memo-on-Jersey-City-Food-Truck-Law-Changes>.

50. *Mayor Gray Proposal Threatens Food Trucks Downtown*, D.C. FOOD TRUCK ASS’N, (Oct. 18, 2012), <http://dcfoodtrucks.org/threat.html>; see also, e.g., *Mobile Food Truck Licensing Information*, DEPT’ CONSUMER & REG. AFF., <http://dcra.dc.gov/DC/DCRA/For+Business/Apply+for+a+Business+License/How+to+Start+a+Mobile+Food+Truck+Business> (last visited Feb. 25, 2013) (“How to Operate Your Business” heading) (explaining operating requirements for food trucks similar to those traditionally associated with ice cream trucks).

51. *Id.*

52. Notice of Third Proposed Rulemaking, 59 D.C.R. 11496 (Office of City Adm’r, Oct. 5, 2012) (proposed changes to D.C. MUN. REGS. tit. 24 § 530).

53. *Id.* (proposed changes to D.C. MUN. REGS. tit. 24 § 531).

54. See *id.* (proposed changes to D.C. MUN. REGS. tit. 24 § 529.4) (excluding from coverage of the new regulations all “ice cream vending vehicles”).

55. *Id.* (proposed changes to D.C. MUN. REGS. tit. 24 § 546).

56. *Id.* (proposed changes to D.C. MUN. REGS. tit. 24 § 502).

57. *Id.* (proposed changes to D.C. MUN. REGS. tit. 24 § 530.7, which set forth the maximum dimensions of vehicles at 18 feet 6 inches long, 8 feet wide, and 10 feet high).

58. *Id.* (proposed changes to D.C. MUN. REGS. tit. 24 § 542.2).

Despite enjoying wide public support, the proposed rules have not yet been implemented because of powerful opposition. For example, the Restaurant Association of Metropolitan Washington is pushing for legislation that would allow food trucks to operate only if they pay adequate sales taxes and remain in designated areas of the city.⁵⁹ Regardless of the final outcome, Washington, D.C., promises to see some change in the near future regarding how the over eighty food trucks in the city can operate their businesses.⁶⁰ The mayor released a goal in early 2012 “to have final version of new regulations” by the end of the calendar year,⁶¹ but his efforts have not yet come to fruition.⁶² It is likely that the resolutions reached in Washington, D.C., will have implications for other cities around the country engaging in similar discussions about food trucks.

Jersey City’s food truck industry has also been largely defined by discussions of change. The effort to reform the regulations began in August 2009 when Health Officer Joseph Castagna became the subject of an investigation after issuing food truck permits, called “itinerant catering licenses,” in numbers that far exceeded the legal cap.⁶³ More concerns arose in January 2010 for the welfare of consumers when a truck had its license revoked for sanitary reasons.⁶⁴ In response, in April 2011, the city’s law department proposed requiring operators to attend a course “on the handling of the food products they will sell,” undergo criminal background checks, submit to a pre-operation inspection, and provide their own trash and recycling receptacles.⁶⁵

In addition to changes meant to protect Jersey City consumers, changes were needed to protect the commercial viability of food truck operators. The current regulations prohibit food trucks from selling food or drink within 300 feet of any licensed eating establishment or remain in any location for more than forty minutes during a four-hour period.⁶⁶ On November 21, 2011, the Municipal Council began to consider an ordinance that would amend Chapter 175 governing Itinerant Eating and Drinking Establishments. Rather than being required to park 300 feet away from a restaurant, food trucks would only be required to remain 200 feet away; instead of moving after only forty minutes, food trucks could remain stationary for up to 120 minutes unless they purchased a monthly parking permit.⁶⁷ Food trucks

59. *Update: Mobile Vending/Food Truck Issues*, RESTAURANT ASS’N METROPOLITAN WASH., <http://www.ramw.org/Legislation/Issues-Washington-DC/DCRA-Proposed-Vending-Regulations.html> (last visited Feb. 2, 2013) (section titled “RAMW Supports Mobile Vending Trucks”).

60. See also Baylen J. Linnekin, *Make the Smart Choice: Don’t Limit Where Food Trucks Can Park in the District*, HUFFINGTON POST (May 17, 2012), http://www.huffingtonpost.com/baylen-j-linnekin/dc-food-trucks-_b_1525096.html.

61. Kyle Johnson, *DCFTA Regulations Being Delayed: Mayor Says Just Following Process*, FOOD TRUCK FIESTA (Mar. 16, 2012), <http://foodtruckfiesta.com/dcfta-says-regulations-being-delayed-mayor-says-just-following-process/>.

62. See 24 D.C. Mun. Regs. ch. 5 (2013) (changes not yet implemented).

63. Memorandum from William C. Matsikoudis, *supra* note 49 (describing proposed amendments to Chapter 175 of the Jersey City Municipal Code, “Itinerant Catering Ordinance”).

64. *Id.* at 2.

65. *Id.* at 4.

66. CODE OF JERSEY CITY, N.J. ch. 175, art. II, § 13.

67. Jersey City, N.J. Ordinance 11-150 (Oct. 20, 2011) (first reading) (proposing changes to CODE OF JERSEY CITY, N.J. ch. 175, art. II, § 14), *available at*

could operate Monday through Friday from 6:00 a.m. until 9:00 p.m.⁶⁸ However, this proposal remains deferred on the Jersey City Municipal Council's agenda.⁶⁹

Although regulatory progress is not immediate, the food truck industry has effected change in some cities and will continue to do so in others.

*D. Some Cities have Written Clear and Specific Ordinances
Regulating Contemporary Food Trucks*

Cities with longer histories of food trucks have had time to adjust their ordinances to reflect unique characteristics of the mobile food industry.⁷⁰ Rather than relying on ice cream truck regulations, they have proposed and adopted regulations treating food trucks as small and portable kitchens and restaurants.

An example of a city with regulations narrowly tailored to food truck operation is Portland, Oregon. The state and the city have been able to respond to the mobile food market and find ways to regulate effectively because modern food trucks first began to spring up in Portland in the late 1980s. According to one journalist, “[u]nlike other cities where obtaining a cart and the necessary permits is cost-prohibitive or full of red tape and black-market pressure, here the city seems to encourage the proliferation of food carts.”⁷¹

Most food truck regulations in Portland aim to promote consumer safety, requiring standards similar to those of traditional restaurants. For example, sick employees cannot work, and sores or cuts must have a watertight cover.⁷² Hand washing facilities must have warm running water, soap, paper towels, and a wastebasket.⁷³ “Potentially hazardous foods must be kept cold at 41 degrees or colder or kept hot at 135 degrees or hotter.”⁷⁴ Furthermore, “[a] commercial dishwasher or three-compartment sink [must] be used to wash, rinse, and sanitize all equipment and utensils.”⁷⁵ Food trucks must obtain a license after a review from the Environmental Health Department, and all workers must have a food handler’s certificate.⁷⁶

[http://jerseycitynj.gov/uploadedFiles/Public_Notices/Agenda/City_Council_Agenda/2011/2011_Ordinances_1st_Reading/agenda%20placeholder\(20\).pdf](http://jerseycitynj.gov/uploadedFiles/Public_Notices/Agenda/City_Council_Agenda/2011/2011_Ordinances_1st_Reading/agenda%20placeholder(20).pdf).

68. *Id.* (proposing new section in CODE OF JERSEY CITY, N.J. ch. 175, art. II, § 9.3(c)).

69. *Minutes of the Regular Meeting of the City of Jersey City, N.J. Municipal Council* (Jan. 23, 2013), available at

[http://www.cityofjerseycity.com/uploadedFiles/Public_Notices/Agenda/City_Council_Agenda/2013/2013__Agenda/Agenda%20Document\(2\).pdf](http://www.cityofjerseycity.com/uploadedFiles/Public_Notices/Agenda/City_Council_Agenda/2013/2013__Agenda/Agenda%20Document(2).pdf).

70. Among those cities with specific food truck regulations are the following: Austin, TX; Denver, CO; Los Angeles, CA; Portland, OR; and Seattle, WA.

71. Dana Bowen, *Food of the People: Portland’s Food Cart Revolution*, SAVEUR.COM (Aug. 5, 2012), <http://www.saveur.com/article/Travels/Portland-Food-Trucks>.

72. *Mobile Food Unit Operation Guide: Guidelines for Food Service*, OR. HEALTH AUTHORITY, 6. <http://public.health.oregon.gov/HealthyEnvironments/FoodSafety/Documents/muguide.pdf> (last visited Feb. 3, 2013).

73. *Id.* at 7.

74. *Id.* at 8.

75. *Id.* at 10.

76. Food Sanitation Rules, OR. ADMIN. R. 333-150-0000 (OR. ADMIN. R. 2006) available at http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_333/333_150.html; *Food Carts (Mobile Food Units)*, MULTNOMAH COUNTY, OR., <http://web.multco.us/health/food-carts-mobile-food-units> (last visited Feb. 23, 2013) (detailing the requirement of review by the Environmental Health Department);

Food carts in Portland fall into four classes based on the products sold and equipment required: Class I sells intact, packaged foods and non-potentially hazardous drinks; Class II sells unpackaged foods in hot and cold holding areas; Class III sells food items cooked and prepared on the unit without the cooking of raw animal food; and Class IV serves a full menu.⁷⁷ Food carts must have a base of operation or be specially certified as a self-contained unit, as long as it has all of the equipment and utensils a commissary would provide.⁷⁸

At any given moment, over 475 food trucks are operating in Portland.⁷⁹ The trucks are grouped and located in designated areas, usually surface lots called “pods,”⁸⁰ and the concentrated number of mobile eating options creates the feel of a street festival. The city’s support for food trucks comes from a study performed by the Portland Bureau of Planning and Sustainability in 2008, which found that the trucks promote social interactions, provide employment opportunities, and “have positive impacts on street vitality and neighborhood life . . .”⁸¹

Los Angeles, California, also has a long history of food trucks. Thus, Los Angeles has regulations tailored specifically to the operation of food trucks and high standards for sanitation. Chapter VIII of the Los Angeles Municipal Code governs the city’s traffic, including “Catering Trucks.” Trucks are required to obey all posted parking restrictions and to dispense food from the street side only.⁸² They must provide a trash receptacle in a conspicuous place clearly marked for patrons.⁸³ In addition to traffic regulations, the trucks are bound by Chapter 10 of the California Retail Food Code. Under this chapter, a truck that will operate in any one location for over an hour must have permission to use a restroom located within 200 feet of the truck.⁸⁴ The truck itself must have a ware-washing sink with three compartments large enough to fit the biggest utensil.⁸⁵

Using accurate information about local regulations, entrepreneurs and restaurants can launch a successful mobile food business, while contributing to the unique environment and culture that food trucks bring to a city.

III. CONCLUSION

Food truck regulations are evolving in cities across the country, and city leaders often must weigh competing interests when considering proposed changes. Many cities are attempting to balance those interests by regulating food and traffic

Mobile Food Unit Plan Review Packet, MULTNOMAH COUNTY ENVTL. HEALTH DEP’T 1, 3 (identifying the requirement of a “food handler card”).

77. *Mobile Food Unit Operation Guide: Guidelines for Food Service*, *supra* note 72, at 2.

78. Mobile Food Units, Commissaries, and Warehouses, 333-162-0040 (Or. Health Auth. 2006) available at http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_333/333_162.html (heading entitled “333-162-0040”).

79. Bowen, *supra* note 71.

80. *Id.*

81. HANNAH KAPELL PETER KATON, AMY KOSKI, JINPING LI, COLIN PRICE & KAREN THALHAMMER, URBAN VITALITY GROUP, FOOD CARTOLOGY: RETHINKING URBAN SPACES AS PEOPLE PLACES 24 (2008), available at <http://www.portlandonline.com/bps/index.cfm?a=200738&c=52798>.

82. L.A., CAL. MUNICIPAL CODE § 80.73(b)(2)(B), (C) (2013).

83. *Id.* § 80.73(b)(2)(D).

84. CAL. HEALTH & SAF. CODE § 114315 (Westlaw current through 2012).

85. *Id.* § 114313.

safety without impeding the creation of a new and popular market in the food industry. It is not likely that a market will roll away any time soon. In fact, a 2011 study released by Technomic, a food industry consulting and research firm, found that “91[%] of consumers polled who are familiar with food trucks say they view the trend as having staying power and not as a passing fad.”⁸⁶ According to the 2012 Restaurant Industry Forecast, 22% of fast-casual and 13% of family-dining operators said they would consider adding a food truck component to their business.⁸⁷

Not only do food trucks offer opportunities for entrepreneurs to break into the food industry, but they also offer growth opportunities for established restaurants. Opening a food truck is a way for an existing restaurant to increase its name recognition and to reach additional consumers who may sample a unique dish from a restaurant’s food truck and be inspired to later dine at the corresponding sit-down restaurant. Mobile units can open the door to large catering opportunities, community outreach, and untapped markets. According to food truck owner and chef Rachael Grossman, “[i]n this country, this kind of food is something that’s trapped inside fine dining. . . . It doesn’t have to be.”⁸⁸

86. *Food Trucks Innovation Report*, TECHNOMIC, INC.
http://www.technomic.com/Reports_and_Newsletters/Industry_Reports/dyn_PubLoad.php?pID=86 (last visited Feb. 3, 2013).

87. *Fast Casuals, QSR's Most Likely to Start Food Trucks*, MOBILE CUISINE (May 14, 2012)
<http://mobile-cuisine.com/trends/fast-casuals-qsr-most-likely-to-start-food-trucks/>.

88. Bowen, *supra* note 71.

