

Midway City Council  
2 June 2020  
Regular Meeting

Ordinance 2020-11 /  
Food Truck Amendments



## CITY COUNCIL MEETING STAFF REPORT

**DATE OF MEETING:** June 2, 2020

**NAME OF APPLICANT:** Midway City

**AGENDA ITEM:** Code Text Amendment of Section 7.05.050:  
Periodic Sale of Prepared Food by Mobile Vendors

### **ITEM: 5**

Midway City is proposing a code text amendment of Section 7.05.050: Periodic Sale of Prepared Food by Mobile Vendors. The proposed code will allow food trucks on public property, excluding the public right-of-way, if the property is rented for an event.

### **BACKGROUND:**

During the City Council's meeting on May 5, 2020 staff proposed an amendment to the Food Truck ordinance that would allow food trucks on public property under certain circumstances. It was decided to consider a comprehensive amendment to the ordinance the City Council. The City Council held a public hearing to gather comment about the current ordinance. Staff was given direction from the City Council on two potential changes that would be made to the ordinance that include the following:

- Catering from a food truck would be allowed throughout Midway
- Food trucks would be allowed in the right-of-way if approved by staff

The proposed code text amendment would add language to the code that would allow food trucks on public property if the property is rented for an event. City properties, such as the Town Square, Centennial Park, and Hamlet Park are rented for events and gatherings. The organizers of these events regularly have asked for food trucks to be included as part of the event. The City has

allowed food trucks to participate in these events, but staff feels there should be specific language in the code that does allow the food trucks to participate. Events in the past that have included food trucks include, Swiss Christmas, Volkesmarch, and events at the ice-skating rink, to name a few. There are private groups that rent the Town Square such as yoga events, that would like to include food trucks. This proposal would allow them to include food trucks as they plan their events.

The following is the ordinance with the proposed changes in red:

*7.05.050 Periodic Sale of Prepared Food by Mobile Vendors*

*A. Purpose and Definitions*

- 1. This section is enacted to allow periodic sale of prepared food by mobile vendors pursuant to the standards and policies set forth herein. Unless authorized by this section, the sale of prepared food by mobile vendors in Midway City is prohibited.*
- 2. The definition of “prepared food” contained in the Utah Sales and Use Tax Act shall govern this section.*
- 3. “Mobile vendor” shall mean a person or entity that sells prepared food from a vehicle that is not permanently affixed to the site of sale and can be readily transported to and from that site. Vehicles used by such mobile vendors are often commonly referred to as “food trucks” and may be so referenced in this section.*

*B. Standards and Policies*

*A currently-licensed business with a physical, commercial presence on a parcel of land located in the C-2 or C-3 zones of Midway City may allow sales of prepared food on that parcel by a mobile vendor in accordance with the following standards and policies:*

- 1. Sales may take place on any day except for days on which food will be sold at a special event to be held on City property.*
- 2. Food trucks operating under this section must be located in a safe and appropriate location, which may include in the public right-of-way, as determined by the City Planner.*
- 3. Preparation, serving and storage of food is subject to inspection and approval by the Wasatch County Health Department.*
- 4. Any equipment or appliances used by the food truck must comply with City ordinances regulating noise.*
- 5. The sale of prepared food by mobile vendors is subject to collection and payment of sales tax in the same manner as any other prepared food sold in Midway City.*
- 6. The holder of the permanent business that is licensed at the location where the food sales occur is responsible to ensure compliance with this section. The City assumes no responsibility for any contractual or legal relationships between the business license holder and the operator of the food truck.*
- 7. The City reserves the right to immediately regulate, modify or terminate the sale of prepared food by a mobile vendor, with or without prior notice,*

*if necessary to protect the public, health, safety or welfare or to abate a nuisance.*

*8. No alcoholic beverages or tobacco products may be sold or served from a food truck.*

*9. The provisions of this section allowing sale of prepared food by mobile vendors may be amended or repealed at any time by the City Council.*

#### *C. Licensing Procedures*

*In order to allow the sale of prepared food by a mobile vendor at an existing business location in the C-2 or C-3 zones, the business license holder must comply with the following procedures:*

*1. File an application with the Midway City Planning Office identifying the date, time and location of the proposed food truck event, the name of the proposed vendor, and other required information required by the City, no later than the close of City office hours three business days before the proposed event.*

*2. Pay a one-time fee for a single event, or an annual fee for the calendar year, in an amount set from time to time by the City Council.*

*3. Submit a site plan with the application showing the proposed location of the food truck on the parcel. Location and placement of the food truck will be subject to review and modification by the City Planner for safety and access purposes.*

#### *D. Catering*

*1. Catering is allowed in all zones but there shall be no direct sales to clients from the mobile vendor.*

#### *E. Food Trucks on City Property.*

*1. Food Trucks (mobile vehicles selling prepared food on a temporary basis) may be allowed on City Property upon the following terms and conditions:*

*(a) The vendor shall apply for and receive a temporary permit to operate a Food Truck on City Property. No Food Truck shall be operated on City Property without a valid temporary permit.*

*(b) The temporary permit shall only be granted when the entire parcel of City Property (i.e. Town Square, Centennial Park or the Hamlet Park) has been rented as part of part of a larger event or gathering. The organizer of the event must rent the entire Park or Town Square, or one of the buildings on Town Square in order for a temporary permit described herein to be issued.*

*(c) Food Trucks are not allowed to operate on City Property if no larger event has been properly scheduled and permitted.*

*(d) The temporary permit shall be issued via administrative approval. The temporary permit may be issued based on conditions as approved by the Midway City Staff.*

*(e) An application for a temporary permit under this subsection shall be submitted on the form provided by the City. The application shall include an administrative fee covering the cost of reviewing and enforcing the permit. The applicant shall include a description of the Food Truck(s)*

*that will be participating, a description of the event in which the Food Truck will participate, and a simple site plan showing the proposed location of the Food Truck, hours of operation, safety issues, access and traffic circulation around the Food Truck area, etc. The City shall impose reasonable restrictions on the location, hours of operation and other issues in order to promote the safety, health and well-being of the attendees at the event, the surrounding property owners, and the public at large.*

*(f) "City Property" for purposes of this subsection regarding a temporary permit, does not include any portion of a public right-of-way. Food Trucks are not allowed to park and do business in a public right of way.*

*(g) All Food Trucks operating under a temporary permit issued pursuant to this subsection shall comply with all other applicable City, County or State requirements, including all Wasatch County Health Department requirements.*

#### **POSSIBLE FINDINGS:**

- The proposed code will allow food trucks on Midway City public areas if all requirements are met
- Food trucks have been included in several events and adding language in the code will make it clear what the requirements are for including food trucks
- Food trucks would only be allowed if the public property is rented
- Food trucks will need to comply with all Health Department requirements
- Food trucks may be located in the public right-of-way if approved by staff
- Catering from a food truck would be allowed in all zones but no direct sales from the food truck would be allowed

#### **ALTERNATIVE ACTIONS:**

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable amendment to the City's Municipal Code.
  - a. Accept staff report
  - b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for continuance
    - i. Unresolved issues that must be addressed
  - d. Date when the item will be heard again
  
3. Denial. This action can be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial



## ORDINANCE 2020-\_\_

### **AN ORDINANCE AMENDING TITLE 7.05.05 OF THE MIDWAY CITY CODE REGARDING TEMPORARY BUSINESS LICENSES FOR PERIODIC SALE OF PREPARED FOOD BY MOBILE VENDORS (FOOD TRUCKS) ON CITY PROPERTY, AND RELATED MATTERS**

**WHEREAS**, the City Council of Midway City desires to amend the City Code to provide for a temporary license for Food Trucks allowing them to operate on City Property under certain limited conditions; and

**WHEREAS**, the City Council now desires to amend Title 7 of the Midway City Municipal Code to accomplish these purposes.

**NOW THEREFORE**, be it ordained by the City Council of Midway City, Utah, as follows:

Section 7.05.050 of the Midway City Code is hereby amended to read as follows:

#### *Section 7.05.050 Periodic Sale of Prepared Food by Mobile Vendors*

##### *A. Purpose and Definitions*

*1. This section is enacted to allow periodic sale of prepared food by mobile vendors pursuant to the standards and policies set forth herein. Unless authorized by this section, the sale of prepared food by mobile vendors in Midway City is prohibited.*

*2. The definition of “prepared food” contained in the Utah Sales and Use Tax Act shall govern this section.*

*3. “Mobile vendor” shall mean a person or entity that sells prepared food from a vehicle that is not permanently affixed to the site of sale and can be readily transported to and from that site. Vehicles used by such mobile vendors are often commonly referred to as “food trucks” and may be so referenced in this section.*

##### *B. Standards and Policies*

*A currently-licensed business with a physical, commercial presence on a parcel of land located in the C-2 or C-3 zones of Midway City may allow sales of prepared food on that parcel by a mobile vendor in accordance with the following standards and policies:*

1. Sales may take place on any day except for days on which food will be sold at a special event to be held on City property.

2. Food trucks operating under this section must be located in a safe and appropriate location, which may include in the public right-of-way, as determined by the City Planner.

3. Preparation, serving and storage of food is subject to inspection and approval by the Wasatch County Health Department.

4. Any equipment or appliances used by the food truck must comply with City ordinances regulating noise.

5. The sale of prepared food by mobile vendors is subject to collection and payment of sales tax in the same manner as any other prepared food sold in Midway City.

6. The holder of the permanent business that is licensed at the location where the food sales occur is responsible to ensure compliance with this section. The City assumes no responsibility for any contractual or legal relationships between the business license holder and the operator of the food truck.

7. The City reserves the right to immediately regulate, modify or terminate the sale of prepared food by a mobile vendor, with or without prior notice, if necessary to protect the public, health, safety or welfare or to abate a nuisance.

8. No alcoholic beverages or tobacco products may be sold or served from a food truck.

9. The provisions of this section allowing sale of prepared food by mobile vendors may be amended or repealed at any time by the City Council.

#### *C. Licensing Procedures*

*In order to allow the sale of prepared food by a mobile vendor at an existing business location in the C-2 or C-3 zones, the business license holder must comply with the following procedures:*

1. File an application with the Midway City Planning Office identifying the date, time and location of the proposed food truck event, the name of the proposed vendor, and other required information required by the City, no later than the close of City office hours three business days before the proposed event.

2. Pay a one-time fee for a single event, or an annual fee for the calendar year, in an amount set from time to time by the City Council.

3. Submit a site plan with the application showing the proposed location of the food truck on the parcel. Location and placement of the food truck will be subject to review and modification by the City Planner for safety and access purposes.

#### *D. Catering*

1. Catering is allowed in all zones but there shall be no direct sales to clients from the mobile vendor.

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(b) The temporary permit shall only be granted when the entire parcel of City Property (i.e. Town Square, Centennial Park or the Hamlet Park)



has been rented as part of a larger event or gathering. The organizer of the event must rent the entire Park or Town Square, or one of the buildings on Town Square in order for a temporary permit described herein to be issued.

(c) Food Trucks are not allowed to operate on City Property if no larger event has been properly scheduled and permitted.

(d) The temporary permit shall be issued via administrative approval. The temporary permit may be issued based on conditions as approved by the Midway City Staff.

(e) An application for a temporary permit under this subsection shall be submitted on the form provided by the City. The application shall include an administrative fee covering the cost of reviewing and enforcing the permit. The applicant shall include a description of the Food Truck(s) that will be participating, a description of the event in which the Food Truck will participate, and a simple site plan showing the proposed location of the Food Truck, hours of operation, safety issues, access and traffic circulation around the Food Truck area, etc. The City shall impose reasonable restrictions on the location, hours of operation and other issues in order to promote the safety, health and well-being of the attendees at the event, the surrounding property owners, and the public at large.

(f) "City Property" for purposes of this subsection regarding a temporary permit, does not include any portion of a public right-of-way. Food Trucks are not allowed to park and do business in a public right of way.

(g) All Food Trucks operating under a temporary permit issued pursuant to this subsection shall comply with all other applicable City, County or State requirements, including all Wasatch County Health Department requirements.

This ordinance shall take effect upon publication as required by law.

**PASSED AND ADOPTED** by the City Council of Midway City, Wasatch County, Utah  
this \_\_\_\_ day of \_\_\_\_\_, 2020.

	AYE	NAY
Council Member Steve Dougherty	_____	_____
Council Member Jeff Drury	_____	_____
Council Member Lisa Orme	_____	_____
Council Member Kevin Payne	_____	_____
Council Member JC Simonsen	_____	_____

APPROVED:

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Celeste Johnson, Mayor

ATTEST:

APPROVED AS TO FORM:

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Brad Wilson, City Recorder

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Corbin Gordon, City Attorney