

FOOD TRUCKS

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I. Introduction

The economic climate of the United States has been grim for most of this decade due to the recession. However, in recent months the nation is regaining its economic viability and multiple business opportunities are becoming relevant in communities across the country. Food trucks are becoming one of the most common economic development mechanisms. The mobile food vending industry generates nearly \$650 million in revenue annually. Furthermore, over the next five years the industry is expected to account for nearly \$3 billion in food revenue.¹

Not only do food trucks benefit the economy, but they also have an effect on the community in which they operate. With a full perspective of the situation this modernized form of commerce is greatly beneficially and presents far more opportunities than problems. The City of Harrisburg should take advantage of the prospect food trucks bring to the downtown area and the surrounding areas. Residents will have their economic opportunities, which were once bleak, become expanded. Poverty stricken communities will become enriched, a positive outcome for everyone in the city. However, it is naïve to believe that these benefits can come without compromises in other facets of city life.

¹ Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

Regulations must set out guidelines for individuals to follow. These regulations must take multiple types of parties into consideration since many people will be affected by the latest up and coming industry. Those participating in the food truck industry, owners of brick and mortar restaurants, and city leaders are all people that must be considered. Regulations should reflect the totality of viewpoints, ultimately expressing the result most beneficially to the city.

The proposed ordinance will define what a mobile food vendor is and the permits an owner of a food truck must acquire. The Mobile Food Vendor License and the Health License are described and the fees associated with each are provided to the licensee. Sanitary and health provisions are also included in the proposed ordinance, along with cleaning and litter requirements. Additionally, the proposal provides an outline of the application process and geographical restrictions a mobile food vendor must comply with.

The food truck industry is not a “one size fits all” trade. Each city has its own unique characteristics that result in different methodologies being used with respect to food trucks. In Harrisburg, the city should welcome mobile food vending with open arms. However, before the city’s arms agree to accept, there needs to be impediments established that place limitations and regulations on the industry. As a result of permitting requirements and other restrictions set in place, foods trucks will become an integrated part of the community and a viable economic opportunity for Harrisburg residents in the years to come.

II. Problem/Opportunity

Change is never a flawless process. Reoccurring problems seem to exist in cities with a prominent food truck presence. The results of certain actions may affect some stakeholders negatively, while still having a positive impact on others. For example, city officials and brick and mortar restaurant owners are more likely to benefit from limited operating hours because it reduces competition and the amount of monitoring necessary.¹ Conversely, the community and mobile food vendors would most likely find the same action undesirable, because it limits the amount of time the food truck would be open and therefore decreases the opportunities to make money.² The ability to resolve each problem fully is not outcome determinative in a city's decision to have food trucks. However, addressing the most important issues and their effect on each stakeholder can go a long way to making mobile food vending a success in a city such as Harrisburg.

The first problem is the economic aspect of the food truck business. While participating individuals may benefit from having the ability to operate within city limits, owners of brick and mortar restaurants as well as city officials are also affected both directly and indirectly. The presence of food trucks may take business away from restaurants.² Fewer people that live in the suburbs are coming into the city due to many factors such as fewer available parking spots that are more expensive and the reoccurring violence that has had a presence in neighborhoods and the media. With fewer patrons visiting currently established restaurants that number may continue to drop with mobile food vendors entering the city. In addition, city officials may become burdened by the necessity to enforce and

² Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

regulate food trucks in addition to the duties they already face. Marcus Burgess, Harrisburg's Health Officer, is currently the only person going out in the community to perform inspections and issue licenses. Without additional staff and resources he will continue to struggle and food trucks will have great difficulty obtaining licenses and meeting inspection requirements.

A second problem is the challenge of respecting the public and private property that food trucks operated on. With an ever-growing interest in mobile food vending, there is limited space in the city for these individuals to operate. Issues also arise with the specific type of property operations may commence. Mobile food vendors cannot operate on city owned park and recreational sites or city owned real estate without obtaining an additional permit, which is issued by the Department of Parks and Recreation.³ Furthermore, the food truck operator has to get zoning approval and written permission from the owner of the property that they wish to operate their business on.⁴ Even after stepping over the geographical limitation hurdle, further restrictions on time constraints and proximity rules raise uneasiness amongst those involved. Street vendors are not permitted to operate within certain distances from an entrance to property, fire hydrants and curbs, and the entrance to any school.⁵ Moreover, a food truck must position themselves far enough from another vendor and cannot operate within the boundaries of a city organized, sponsored or sanctioned event.⁴

³ Harrisburg, Pennsylvania, Municipal Code § 6-605.5

⁴ Harrisburg, Pennsylvania, Municipal Code § 6-605.3

⁵ Harrisburg, Pennsylvania, Municipal Code § 6-605.4

Lastly and possibly most important is the assurance that the public health, safety, and welfare will be protected when food trucks are functionally in the city. Sanitation and food safety are growing concerns that only intensify in the mobile restaurant setting. Each food truck must be equipped with certain water, heating, and refrigeration equipment to ensure that food is properly prepared in a clean environment.⁶ Vehicle and pedestrian safety also become issues when dealing with businesses on wheels. The free flowing operation and limited space of food trucks raise distinct concerns that require individualized attention and solutions. Currently food trucks are not allowed to sell their product out of their truck; they must set up an area outside for patrons to purchase and eat their food.⁷ Food truck operators must also set up their establishment on sidewalks that meet the width requirements of the permit as well as maintain a walking path between the street and the food truck.⁸

The food industry in the city of Harrisburg has fluctuated over the years. Businesses have come and gone, while others have had a presence for decades. Even with the changes that occurred, there is one fact that has remained the same. Restaurants and entrepreneurs most commonly focus their attention on the heart of the food and beverage business in the city; Second Street. The centrality and busyness of Second Street is an opportunity that the food truck industry can take advantage in Harrisburg. With business offices and state government workers

⁶ City of Harrisburg Vendor License

⁷ City of Harrisburg Vendor License Rules and Regulations

⁸ Harrisburg, Pennsylvania, Municipal Code § 6-605.4

converging within a small radius in Harrisburg each and every day, the city's population grows during normal business hours.

Individuals need to eat. This is true no matter a person's race, gender, or ethnicity. Food trucks could provide diverse dining options for citizens of Harrisburg as well as those individuals working in the city. Rather than being strained by the brick and mortar restaurant choices, people would be able to choose from different types of food and also food at a cheaper price. People who may not have otherwise left their office for lunch may now go outside and explore what the city has to offer. Indirectly, increased traffic in the city can lead to economic development in areas that may have recently been struggling.

The mobile food industry also gives those less fortunate within Harrisburg to have more opportunities on a multitude of levels. Entrepreneurs that may not have otherwise started a business due to high costs could take advantage of the low overhead costs of running a food truck and start their own establishment.⁹ In addition, food trucks can decrease the number of unemployed citizens. As with every new venture, it can only be successful with the help of employees.

Furthermore, the mobility of food trucks offers an important opportunity on its own. Neighborhoods that have limited access to restaurants and areas with low-income housing can have food options that they otherwise wouldn't have. A presence of food trucks throughout all portions of Harrisburg will bring citizens out into the community more often and bring a social and cultural atmosphere that did not exist previously.

⁹ Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

III. Why New or Revised Ordinance is Needed

The existing applicable law governing the mobile food industry in Harrisburg can be found in Title 6: Public Health Code of the city's ordinances. More specifically, Part 5: Food Establishments; Eating and Drinking Establishments, of the Public Health Code provides for the food code as well as guidelines for food inspection and food sales by street vendors. The chapter relating to street vendors was adopted by the City Council of the City of Harrisburg by Ord. No. 38-1994.¹⁰

Chapter 6-505: Food Sales by Street Vendors, defines key terms such as cart, food/nonfood products, services, and street vendor.¹¹ The ordinance next states the types of licenses street vendors are required to commence operation as a legally operating food truck.¹² It also describes the qualifications to obtain these licenses and what must be included when applying for a license. Next, the ordinance places restrictions on locations where food sales are prohibited within Harrisburg. Touching upon the health and safety aspect of the street vendor industry, the ordinance places responsibilities on the vendor for taking care of litter and keeping equipment clean.¹³ There are also product requirements and approval practices of facilities for sanitation reasons.¹⁴ City Council specifically addresses individualized regulations for hot dog and pretzel sales as well as additional food products that are

¹⁰ Harrisburg, Pennsylvania, Municipal Code § 6-605

¹¹ Harrisburg, Pennsylvania, Municipal Code § 6-605.1

¹² Harrisburg, Pennsylvania, Municipal Code § 6-605.2

¹³ Harrisburg, Pennsylvania, Municipal Code § 6-605.3

¹⁴ Harrisburg, Pennsylvania, Municipal Code § 6-605.8

not already approved within the ordinance.¹⁵ Lastly, enforcement mechanisms and penalties for noncompliance are addressed.¹⁶

In the twenty years since the ordinance's enactment, the landscape of the city has changed. The food industry has grown in size and the number of options the members of the community can chose from. Additionally, mobile food vendors have reached new heights that the city has never seen before. With the modernization and expansion of the food truck business, the applicable rules and regulations should follow suit. A revision of the current law will allow for current issues to be addressed that business owners and communities can relate to on a more personalized level.

One reason why the existing law cannot adequately address the problems or opportunities food trucks present in the city of Harrisburg is within the definition of the word cart. Currently, "carts are propelled by the operator to the serving location (pushed, pulled or pedaled) and may be motorized to assist movement".¹⁷ In this generation mobile food trucks are almost always motorized and operated like a vehicle. The current ordinance applies to the current technology, but it is unlikely that the drafters of the rules and regulations had actual trucks in mind when establishing the ordinance. This raises issues relating to location, the environment, and space that were not relevant at the time the ordinance was enacted. As a result, changes such as having the ability to sell out of the food truck and operating in more than one location should be represented in the updated ordinance.

¹⁵ Harrisburg, Pennsylvania, Municipal Code § 6-605.99

¹⁶ Harrisburg, Pennsylvania, Municipal Code § 6-605.10

¹⁷ Harrisburg, Pennsylvania, Municipal Code § 6-605.1

Another inadequacy of current law is that the standards food facilities must be meet are described in the “National Sanitation Foundation Regulations for foods Carts of 1986, No. 59”.¹⁸ The sanitation standards that are intended to protect the health, safety, and wellbeing of the community are nearly ten years older than the ordinance itself. It is essential to update the existing law in order to ensure proper sanitation of food trucks and the product that they put into the hands of citizens. The Health Officer, along with the necessary parties within city government, should work to establish criteria that mobile food vendors can strive to achieve while operating their truck.

Furthermore, the existing law is inadequate to address current problems and opportunities because of the penalties violators of the ordinance face. Currently, a person is subject to “Chapter 6-103, Enforcement and Penalty, of these Codified Ordinances” if they disregard the rules and regulations laid out in the ordinance.¹⁹ Since the mobile food industry is an extremely specialized industry, the penalties and fines should also be specialized. There needs to be penalties that specifically address food truck operators in order to provide the most effective and efficient enforcement of the ordinance. The current penalties are not appropriate for food trucks, as they seem to relate more to push carts or other types of mobile food vendor operations.

Lastly, at the moment multiple departments within city government are given duties to carry out for the regulation of street vendors. The Tax and Enforcement Office deals with the Mercantile Applicant and the Vendors License.

¹⁸ Harrisburg, Pennsylvania, Municipal Code § 6-605.11

¹⁹ Harrisburg, Pennsylvania, Municipal Code § 6-605.99

The Planning Bureau has jurisdiction over the Zoning permit.²⁰ The Health License and Fire Prevention fall under the Codes Bureau's purview. Within these three city departments, four individuals are involved in the process as well. They include the Zoning Administrator, Codes Administrator, Health Officer, and Tax and Enforcement Administrator.²⁰ It is better suited for a new ordinance to streamline process and make it more efficient. Giving one centralized department authority over the mobile food industry will make permitting, operation, and enforcement easier for not only the city but also the food truck operators. In addition, establishing an Application Review Committee, similar to what York has, will allow an independent group with knowledge of the mobile food vendor industry to make educated decisions involving the permit process.²¹

A municipality such as the city of Harrisburg is a function of the state and given limited powers by the state. Harrisburg is categorized as one of Pennsylvania's third class cities. Consequentially, the powers of the city government are expressly stated in Chapter 81: The Third Class City Code within Title 53 (Municipal and Quasi-Municipal Corporations) of the Pennsylvania Statutes.²² The Mayor-Council Plan A in Article IV of Chapter 83 (Optional Third Class City Charter Law) is also applicable since city officials have recently adopted it.²³ These provisions give the city of Harrisburg the authority to regulate and license mobile food vendors.

²⁰ City of Harrisburg Vendor License Rules and Regulations

²¹ York, Pennsylvania, Municipal Code § 332

²² 53 P.S. Ch. 81

²³ 53 P.S. Ch. 83, Art. IV

Within the Third Class City Code, Article XXII permits a city to establish a Board of Health and create the position of health officer.²⁴ The health officer must be certified by the State Department of Health and have experience and training in this type of work.²⁴ Duties of the health officer include making sanitary inspections, execute orders of the board of health or other rules and regulations, and giving citations for violations for applicable laws or ordinances.²⁴ Fees and penalties the health officer obtains must be given to the city treasurer and used for the city.²⁴ Article XXVI of the Third Class City Code also gives cities the power to establish specific licensing and regulatory authority licenses and fees for businesses or occupations.²⁵

The proposal will provide residents and businesses in Harrisburg with social benefits that would cease to exist without the presence of food trucks. The mobile food industry enriches communities by improving access to goods and expanding the variety of goods. This is especially true in geographic areas such as northern portions of Harrisburg, which have low-income residents and housing projects. Areas such as this can be defined as a “food desert”.²⁶

A food desert is a geographic area where nutritious food is unavailable or only available at extremely high prices.²⁶ Food deserts are caused by lack of capital among the poor and high overhead costs.²⁶ Individuals living in these areas must prioritize their hard earned paycheck money towards paying the bills and other

²⁴ 53 P.S. Ch. 81, Art. XXII

²⁵ 53 P.S. Ch. 81, Art. XXVI

²⁶ Erin Norman, et al., Street of Dreams: How Cities Can Create Economic Opportunities By Knocking Down Protectionist Barriers to Street Vending (The Inst. For Justice 2011).

day-to-day aspects of life. These same people are concentrated on having a meal that day, not on choosing between a variety of options and the healthiness of the food. In Harrisburg, Allison Hill and other parts of uptown can fall into this category. Taking a ride through that area, finding a restaurant or food establishment other than a convenience store is a difficult task. Children most likely rely on the businesses currently present or food provided to them in school. By maintain low prices and providing healthy options, food trucks can be a solution to a low-income family's problem.

Food trucks can help combat this issue by having a presence in food deserts. Individuals living in the community will have increased access to goods and services that they wouldn't otherwise have. Healthy and ethnic choices of food can become an easily accessible as getting a cheeseburger and fries at a fast food restaurant. Businesses that typically wouldn't be located in an area due to high crime or the type of cliental can now have access to these regions by being mobile.²⁷ Conversely, residents that don't own automobiles will have the opportunity to have a similar dining experience as everyone else in the community.²⁷

Along with enhancing the access to goods, food trucks expand the variety of goods cities can offer. Products that would not be profitable for business owners operating in a fixed location can reach a larger customer base by being mobile and exposing their product to a larger customer base.²⁷ Increasing the assortment of food options diversifies communities within a city that previously may have not

²⁷ Erin Norman, et al., *Street of Dreams: How Cities Can Create Economic Opportunities By Knocking Down Protectionist Barriers to Street Vending* (The Inst. For Justice 2011).

experienced other cultures and ethnicities.²⁸ Expanding the variety of goods can also be profitable for the food truck operator. A study compiled in Washington D.C. found that 82% of people would buy something from a vendor if they offer something unique or a niche product.²⁸ Another study found that 60% of people choose to get lunch from a food truck due to the variety of novelty of the industry.²⁸ An interesting aspect of the study is that on average respondents traveled approximately two and a half blocks to reach a food truck.²⁸ This shows that customers take advantage of an opportunity to buy unique products when the producer comes to them.

Food trucks also benefit communities due to their mobility and business environment. With an outdoor presence in neighborhoods throughout the city, residents and business owners are “eyes on the street”.²⁸ Every party involved in the industry has stake in the safety and wellbeing of the citizens. This is especially true in areas outside of downtown, such as midtown, uptown, and Allison Hill. These places have a smaller presence of businesses, offices and citizen interaction. In addition, these parts of town are where a majority of Harrisburg’s residents live and have a higher violence rate. Food trucks get people out of their homes and onto the streets of their neighborhood. This allows for an increase in neighborhood policing to protect citizens from violence and unwanted negative externalities.²⁸ People can begin to feel safe in their community due to the comradely and trust between residents and business owners.

²⁸ Erin Norman, et al., Street of Dreams: How Cities Can Create Economic Opportunities By Knocking Down Protectionist Barriers to Street Vending (The Inst. For Justice 2011).

Environmental benefits can come from the existence of food trucks as well. Brick and mortar restaurants typically operate for long hours and offer a large amount of product. On the other hand, food trucks have a much more limited time of operation and have much less product to keep. A business with a larger volume of product produces more emissions due to the continuous power that needs to run to operate the restaurant.²⁹ Although food trucks must run on fuel and provide power to a generator to operate cooking equipment, there are environmentally beneficial alternatives to typical fuel that can be used to decrease the harm done.²⁹

A study was done that compared the energy consumption and emissions for two similar food businesses; one a food truck and the other a brick and mortar restaurant. Curbside Cupcakes, the mobile food vendor, sold fifteen cupcakes per hour open for a total of approximately 375 cupcakes per week.²⁹ Red Velvet Cupcakery, the brick and mortar restaurant, sold 156 cupcakes per hour open and about 15,000 cupcakes per week.²⁹ The food truck produced less than six times the amount of carbon dioxide equivalent emissions per hour open than the storefront shop.²⁹ In addition, the food truck needed only eighty gallons of gasoline per month to be fully operational.²⁹ Using the price of gasoline currently, which is three dollars, the food truck's monthly electric bill would have been \$240.²⁹ On the other hand, the brick and mortar restaurant had an average monthly electric bill of \$3,000.²⁹ Individuals owning a food truck can keep the environment much more clean than a

²⁹ Sara Johnson, Are Food Trucks Worse for the Environment than Storefronts? (City Lab 2013).

typical restaurant and also have much lower electric costs.³⁰ Lower costs allows for a larger profit, which leads to a more prosperous economy.

The most positively affected aspect of adding food trucks to Harrisburg's food scene is the economy. For over a century, food trucks have been a way out of unemployment and poverty. The city of Chicago encouraged the individuals operating food trucks in the early 1900's due to their effect on the city's cost of living. It was found that alternative vending options greatly reduced the high cost of living in the city.³¹

Currently, due to the recent recession, interest in vending as a solution to job losses is growing once again. It is estimated that more than 80% of members in a vendor association in Chicago consider vending to be there primary economic activity.³¹ Many of these members found it difficult to find employment elsewhere, and turned to vending in order to provide for their family. In addition, experts estimate that up to 10,000 jobs could be created in New York City if there were a limited amount of food truck permits available in the city.³¹

Not only does the mobile food industry lower the cost of living and create jobs, but it also is a revenue builder. With more businesses sprouting up throughout the city, opportunities for economic development arise as well. Increases in tax revenues and revenues obtained through permitting can bring in money to a city that struggles economic in other facets of local government. Furthermore, by having

³⁰ Sara Johnson, Are Food Trucks Worse for the Environment than Storefronts? (City Lab 2013).

³¹ Erin Norman, et al., Street of Dreams: How Cities Can Create Economic Opportunities By Knocking Down Protectionist Barriers to Street Vending (The Inst. For Justice 2011).

the substance of the pertinent ordinance touch upon only the necessary and related regulatory measures and not protectionist language that reduces competition and benefits brick and mortar restaurants, cities can reduce costs and get the most out of the opportunity presented to them.

IV. How this problem has been addressed in other jurisdictions/Key policy issues

When cities throughout the country updated or established an ordinance addressing food trucks, there are multiple policy areas that continue to be addressed. As a result, best practices have arisen that can act as a blueprint for Harrisburg and other cities looking to address this problem.

The first key policy choice that decision makers are confronted with in adopting an ordinance is whether streamlining the process will result in a more beneficial outcome for all parties involved. Streamlining the permitting process food truck vendors must go through allows the entrepreneur to have a better understanding of what is required of them.³² Currently, in order to find the specific rules and regulations as well as what permits are necessary for mobile food vendors to operate under, an individual must go to the city of Harrisburg's website and do their own research. Since the current ordinance fails to address many if not all of the licensing requirements, a prospective entrepreneur must go through the various city permits and licenses to determine which ones apply to them.

³² Erin Norman, et al., *Street of Dreams: How Cities Can Create Economic Opportunities By Knocking Down Protectionist Barriers to Street Vending* (The Inst. For Justice 2011).

This is an arduous process that places a burden on the mobile food vendor before they even start operating. Adopting a new ordinance which contains all licenses or permits pertinent to food trucks, the rules and regulations, and enforcement mechanisms will make it abundantly clear to vendors what is required of them. In addition, by consolidating and streamlining the process, the burden on departments and individuals within the city government will become diminish due to the reduction in the amount of parties involved in the process.

The proposed ordinance would put the Health Officer in charge of the mobile food vendor industry. An application review committee would then assist the Health Officer in determining the viability of a proposed food truck vendor. It allows areas of city government that are understaffed or underfunded to be relieved of duties previously placed on them. Even though the department that has the task of applying a city's food truck ordinance will face more work, the process will lead to greater efficiency and transparency of the process. Rather than dealing with multiple offices within the administration, streamlining the process will make it so that everyone knows who is in charge of the issue and what duties specific people within that department have. The mobile vendor can interact with fewer city officials and get to know the people they are working with to keep their business complying with the city's rules and regulations. City employees can also have an easier time by communicating amongst the people in their own department rather than cross communicating between governmental departments.

A majority of the prominent food truck cities have a streamline process within their city government. Most cities use three to five departments for

permitting, licensing, and enforcement of their mobile food industry ordinance.³³ However, the trend, especially in surrounding cities, has come out on the lower end of the average range.³³ Although uncommon and not impossible to have, a fully centralized system is also seen throughout the country. For example, in Cincinnati, Ohio the Department of Health has all the responsibilities with their city's ordinance.³⁴ Austin, Texas is another city that streamlines the permitting process by giving comprehensive authority to a single entity. In Austin, the city government makes it very clear on their website what is required of vendors operating food trucks in their city. All permitting forms are available to fill out online, requirements for each permit are expressly stated in a checklist for mobile vendors, and health and sanitary standards can be found in the same place.³⁵

By restructuring the entire process, vendors benefit from the start of the endeavor at the application step and continue reap the benefits at the point that they sell their product. All food truck owners want a process that is quick, certain, and efficient. The proposed Harrisburg ordinance will provide a speedier process due to the easily accessible permits and requirements. Certainty will come from having all rules in one specific place and by limiting the amount of involvement by city departments. The mobile food vending industry in Harrisburg can work efficiently by having stakeholders work together and through the creation of regulations that give food truck owners easier ways to sell their product. Allowing vendors to sell their product right from their truck, rather than requiring them to

³³ Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

³⁴ Cincinnati, Ohio, Municipal Code § 723

³⁵ Austin, Texas, Municipal Code § 10-3

set up a table or stand, which is currently needed, can accomplish this goal.

Additionally, by removing current limitations and applying a street vendor health license to more than one location and vehicle, gives vendors more flexibility and freedom to operate where they choose.

An important aspect of the mobile food vendor permitting process is the actual cost of the permits. Too high of a monetary value can act as an impediment to entrepreneurs entering the food truck industry.³⁶ Too low of a cost can be detrimental to city officials by less revenue being raised than what may have been expected.³⁶ The community is also affected by the price of permits, since more food truck businesses entering the city will lessen their tax burden.³⁶ It is important to find a middle ground so that the amount a mobile food vendor pays for a permit cannot be too great of a detriment to a particular party, but also work as a beneficial method of raising revenue.

The range of annual permitting fees in cities that have food trucks varies greatly; \$110 - \$1,500.³⁷ In Harrisburg, a mobile food vendor pays \$215 for each year they are in operation.³⁸ A general license application cost \$50.00, a mercantile application cost \$40.00, the zoning/fire prevention permit cost \$25.00, a health license is \$75.00, and there is an application fee of \$25.00.³⁸ The total amount of money a food truck owner in Harrisburg must pay annually is a reasonable amount and at the low end of what other cities charge. Nevertheless, by reducing the amount

³⁶ Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

³⁷ Erin Norman, et al., Street of Dreams: How Cities Can Create Economic Opportunities By Knocking Down Protectionist Barriers to Street Vending (The Inst. For Justice 2011).

³⁸ City of Harrisburg Vendor License Rules and Regulations

of permits and licenses from five to two can further the goal of streamlining the process. Having one vendor license and one health license is a reasonable solution to keep revenue amounts the same, while establishing a more efficient procedure.

On the low end of the range, Durham, North Carolina requires food truck owners to pay \$75 for a yearly permit along with the necessary health permits.³⁹ St. Louis, Missouri is quite the opposite. The St. Louis city government demands vendors obtain two different vending permits totaling \$700 and also a health permit, which can cost up to \$310. In addition, a licensing fee of \$20 is applied to each employee a food truck owner has on the payroll.⁴⁰ New Orleans, Louisiana has a much more realistic permitting fee that totals \$610.50 annually.⁴¹ They required a mobile vending permit, occupational license, mayoralty permit, sales tax deposit and an identification card.⁴¹ Each fee has a necessary function for the process to work, but the fees are reasonable which make owning and operating a food truck in the city attainable.

In order for the ordinance to be financially sustainable, there must be a revenue stream that ultimately leads to the city government. Money will be brought in from a multitude of avenues. A large sum will come from permitting fees that each mobile vendor must obtain on a yearly basis.⁴² Additionally, each food truck will contribute to an increase in tax revenues.⁴² As food trucks play a more vital role in the city's food industry, a greater number of people will visit the city. With a larger

³⁹ Durham, North Carolina, Municipal Code § 54

⁴⁰ Vending Rules & Regulations for the Downtown Motorized Food Truck Vending District

⁴¹ <http://www.nola.gov/onestop/business/food-alcohol/food-truck-permit/>

⁴² Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

population within the city, profits will increase for other businesses and parking meters. For example, an owner of a current Harrisburg food truck pays \$15,000 a year just for parking his business within the city limits.⁴³ People moving from the suburbs to downtown housing can result from a more vibrant and diverse community, leading to more tax revenues and other indirect monetary benefits for the city. The proposal is self-sufficient and does not need individualized funding. No additional employees will need to be hired and the amount of funds brought in by mobile food vendor's licenses will more than likely increase with new provisions in the ordinance.

Another policy area that needs addressed is how much of a city's scarce amount of public space should be available to mobile food vendors. A city with extremely flexible regulations relating to public property face issues such as overcrowding and environmental degradation. On the other hand, a city that uses common sense solutions that place some restrictions on land use can lead to a positive outcome for brick and mortar restaurants and the mobile food vendors.⁴⁴ Time constraints and proximity rules are regulatory methods that can lead to a successful disbursement of public space within a city.⁴⁴

In a city such as Harrisburg that is in financial distress, liberal time restrictions will result in a larger revenue source than extremely restrictive regulations would raise. A mobile food vendor that is open for an extensive portion of the day increases competition with the city's restaurants, but also allows for a

⁴³ Sue Gleiter, Gyro Express mobile truck pulls into Harrisburg (Pennlive 2014)

⁴⁴ Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

longer period of time customers can take advantage of the product.⁴⁵ Longer time limits allow city officials, including health and safety inspectors, to work more efficiently by being able to visit multiple vendors per day to perform enforcement activities.⁴⁵ The ability to have similar hours as a brick and mortar restaurant increases the number of people visiting the city, as individuals with less flexible schedules have more of an opportunity to purchase items from food trucks. With more people coming to the city, the amount of vacant parking spaces will decrease and the profits raised from hourly parking will increase exponentially.

Food truck owners in Oakland, California have a five-hour time limit to operate their business within the city limits daily.⁴⁶ Before the five-hour limit was established, vendors were required to move locations every two hours.⁴⁵ Most food trucks take about an hour to set up and clean up their business. Inevitably, vendors had very little time to actually sell their product and make any money. Removing the time restriction based on location allowed owners to expand their actual vending time and maximize their daily profits.⁴⁵ Similar to Oakland, Durham, North Carolina abolished time limits for individual locations due to opposition from business owners and the general public.⁴⁷ Mobile food vendors wanted to be open longer hours in order to increase profits, while customers in the community desired hours of operation that made it more convenient to shop at their favorite food truck.⁴⁵

Proximity restrictions place limitations on how close a food truck can operate in relation to other food trucks, restaurants, or other enterprises. Allowing

⁴⁵ Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

⁴⁶ Oakland, California, Municipal Code § 5.51

⁴⁷ Durham, North Carolina, Municipal Code § 54

mobile vendors to operate close to one another can increase pedestrian and vehicle traffic, which can boost the number of patrons.⁴⁸ Conversely, an area that has a cluster of business can lead to issues arising from congestion. Pollution can be a negative product of increasing the distance between vendors because rather than walking to or between food trucks, people must drive to other places in the community to reach the food truck of their choice.⁴⁸ However, strict proximity restrictions are beneficial for restaurant owners, as there is a decline in competition for the community's business.⁴⁸

Most cities have moderate proximity restrictions that require food trucks to operate roughly 150-200 feet from other food establishments.⁴⁸ In addition, some cities have different distance restrictions depending on the area of the city. Areas with a dense population and a large number of businesses may have a smaller restriction (less distance) to allow vendors to have an opportunity to be a part of the thriving economic situation.⁴⁸ On the other hand, parts of the city that are sparser would benefit more from a more stringent limitation (more distance) on proximity.⁴⁸

In Harrisburg, a mobile food vendor cannot operate within 15 feet of any entrance to a property.⁴⁹ In addition, a food truck must operate at least 50 feet from another vendor and 500 feet outside a city organized, sponsored or sanctioned event or activity.⁴⁹ The locational restrictions are especially burdensome in downtown areas such as Second Street. Due to the numerous food establishments and already limited space, food trucks will have a difficult time just setting up shop

⁴⁸ Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

⁴⁹ City of Harrisburg Vendor License Rules and Regulations

in order to have the ability to compete with others. By reducing the 50 feet restriction from any other vendor or food operation to 15 feet, food trucks will have more space to choose from and gain access to high pedestrian areas that were previously prohibited.

Although the economic policy considerations are what typically drive city official's opinions on the food truck industry, the public health aspect of the industry is equally important and plays a crucial role in the establishment of ordinances. The Center for Disease Control and Prevention (CDC) coordinated with the California Environmental Health Services Branch (EHS) to study mobile food trucks in six counties in California.⁵⁰ One of the main conclusions was that specific approaches to food safety and sanitary of food trucks can be taken in order to meet the same standards and requirements of a brick and mortar restaurant.⁵⁰ Nearly 95% of mobile food trucks studied had at least one critical risk factor.⁵⁰ Risk factors include lack of hand washing, insufficient refrigeration, and cross contamination.⁵⁰

Risk factors are not unique to mobile food vendors, as they are also found in a typical brick and mortar restaurant. The difficulty with food trucks is that due to their mobility and hours of operation, they are more difficult to inspect and as a result when they actually are inspected the inspections are less complex and much more basic than their brick and mortar counterparts. To combat these issues cities and counties have established inspection schedules that take place on city government property or at an agreed upon location.⁵⁰ This makes the inspection process easier for the vendor and the city officials. In addition, other jurisdictions

⁵⁰ Brenda Vanchaik & Joyce Tuttle, Mobile Food Trucks: California EHS-Net Study on Risk Factors and Inspection Challenges (Journal of Env'tl. Health 2014).

have begun to use the same type of food inspection for both brick and mortar restaurants as well as mobile food vendors.⁵¹ Setting equal standards for the entire food industry in the city puts less pressure city officials by only having to know and perform one type of inspection.⁵¹ It also is reassuring to the community since they can eat at food trucks without worrying about the possibility of putting harmful and unsanitary products into their bodies.

In conclusion, the current rules and regulations applicable to Harrisburg's mobile food vendors are in need of revision to ensure the best possible outcome for the city as a whole. Mobile food vendors should benefit by less rigorous constraints that hamper an owner's ability to start a business and function in an economical and efficient manner. Along with mobile food vendors, the community and brick and mortar restaurant owners cannot be forget, as a solution to the problem must take these stakeholders' views under consideration. A revenue streaming and public supported solution to the mobile food industry in Harrisburg is possible and can lead to the start of Harrisburg's rising progression as a city.

⁵¹ Food on Wheels: Mobile Vending Goes Mainstream (Nat'l League of Cities 2013).

BILL NO. ____ of 2014

Moved by: _____

An Ordinance amending Title 6 Section 6-505 of the Codified Ordinances of the City of Harrisburg, and creating revised regulations for food sales by street vendors in order to modernize the provisions currently in place.

WHEREAS, the council of the city of Harrisburg hereby finds and declares strong communities to be important to the social and economic vitality of the city; and

WHEREAS, the council further finds that social and economic vitality of the city can be established through a multitude of methods, including mobile food vendors; and

WHEREAS, the council finds that mobile food vendors will provide an economic spark to downtown and other areas of the city by creating jobs and being a source of revenue for the city, and

WHEREAS, the council finds that food trucks have a great benefit to the community and the city's economy.

WHEREAS, the council finds that the existing ordinance is dated and needs to be updated in order to be relevant with developments in the mobile food industry.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISBURG AND IT IS HEREBY ENACTED BY AUTHORITY OF THE SAME, as follows:

SECTION 1. Part 5 of Chapter 6 of the Consolidated Ordinances of the City of Harrisburg is amended to read:

CHAPTER 6-505

FOOD SALES BY STREET VENDORS

§ 6-505.1. Definitions.⁵²

The following words and phrases, when used in this chapter, shall have the meaning ascribed to them in this chapter, unless the context clearly indicates a different meaning:

Cart. A mobile unit intended to be serviced from another location. Carts are propelled by the operator to the serving location (pushed, pulled or pedaled) and may be motorized to assist movement. Goods are sold from the interior or exterior of these units.

Food products. Sandwiches, ice cream, soft drinks, candy, and all other articles of food or drink intended or prepared by the vendors thereof for human consumption.

Nonfood products. Balloons, novelty items, jewelry, clothing, books, or other tangible items not intended for human consumption.

Services. Tarot card readings, horoscopes, palm readings, spiritual guidance, advice, or other nontangible services.

[Street vendor or vendor] Mobile food vendor. [Any individual, partnership, association or corporation] A person selling or offering for sale any food products, nonfood products or services, as hereinafter defined, in or about the streets of the City from means of distribution which may include but are not limited to carts, baskets or containers, as appropriate.

⁵² Harrisburg, Pennsylvania, Municipal Code § 6-605.1

§ 6-505.2. Licenses required.⁵³

(a) [No street vendor shall commence operation until all appropriate] A person shall not operate as a mobile food vendor in the city unless the person has a valid license[s] [have been] issued by the City Health Office [and the Tax Enforcement Administrator].

(b) All licenses shall be prominently displayed at all times during operation.

(c) [Any street vendor] A mobile food vendor operating without a valid license[s] shall be deemed in violation of this chapter, and [such vendor's cart will] the mobile food vendor shall be subject to [confiscation by the appropriate authorities] penalties and fines under § 6-505.99.

(d) A person operating as a mobile food vendor in the city shall obtain the following:

(1) A “Mobile Food Vendor License”; and

(2) A “Health License”.

§ 6-505.3. Health license.⁵⁴

a. To qualify for a health license to sell food products, a [street] mobile street vendor shall provide evidence that he or she has a cart which meets the standards contained in the latest edition of the [“National Sanitation Foundation Listings for Food Service Equipment,”] “Harrisburg Health License”, [10] copies of which are on file in the office of the City Clerk.

⁵³ Harrisburg, Pennsylvania, Municipal Code § 6-605.2

⁵⁴ Harrisburg, Pennsylvania, Municipal Code § 6-505.3

b. When applying for a health license, the potential [street] mobile food vendor shall provide the necessary information requested by the Health Officer. [following information:

1. Name and permanent mailing and residence address;
2. Written permission from the property owner to operate from a specified location;
3. Sources of all goods sold and used, including but not limited to food items, condiments, paper goods, ice, beverages, and water; and
4. Location where all trash and litter will be taken for disposal.]

§ 6-505.4. Locations where sales prohibited.⁵⁵

(a) [No street] A mobile food vendor [shall hereafter] may not sell or offer for sale any products or services within 15 feet of [any of the following:]

- (1) [any] An entrance to any property[, or] .
- (2) [b]Between a fire hydrant and the curb[, or].
- (3) [w]Within 500 feet of an[y] entrance to a[ny] public or private school[, or].
- (4) [o]On a[ny] sidewalk having a width of less than four feet[, or].
- (5) [f]From any motor vehicle.

(b) All mobile food [street] vendors shall position themselves at least [50] 15 feet from another mobile food [street] vendor and shall locate the cart or truck at the curb in such a way as to cause any line which forms to do so along the curb.

⁵⁵ Harrisburg, Pennsylvania, Municipal Code § 6-605.4

(c) [No street] A mobile food vendor [shall hereafter] may not sell or offer for sale any products or services within 500 feet of the designated boundaries of any activity or event [City-]organized, [-]sponsored or [-]sanctioned [event or activity] by the city to which vendor access is restricted or regulated, [provided that this restriction shall not apply to a street] unless the mobile food vendor who receives a permit from the director of the department sponsoring the event to operate within the boundaries of [any City-organized, -sponsored or -sanctioned] the event or activity, in addition to all other licenses required [hereunder] under this chapter.

§ 6-505.5. Park permit required.⁵⁶

No [street] mobile food vendor shall sell or offer for sale any food products at [C]city parks and recreational sites or upon [C]city-owned real estate without possessing a valid park permit issued by the [Department of Parks, Recreation and Enrichment] Health Officer.

§ 6-505.6. Responsibility for litter.⁵⁷

[Any street] A mobile food vendor [hereafter selling or offering for sale food and nonfood products or services] shall [pick up and] remove any [and all] papers, wrappers, bottles, or other refuse dropped by the customers [thereof] in the vicinity of the of the mobile food vendor. [cart from which such food or nonfood items or services are sold. Additionally, a] A [street] mobile food vendor shall provide for all customers a container for the deposit of [all] refuse, which container shall be removed by the [street] mobile food vendor at the close of [each] the mobile food

⁵⁶ Harrisburg, Pennsylvania, Municipal Code § 6-605

⁵⁷ Harrisburg, Pennsylvania, Municipal Code § 6-505.6

vendor's business day. [Under no circumstances shall a street] A mobile food vendor, may not use a container or receptacle provided for the use of the general public.

§ 6-505.7. Cleanliness.⁵⁸

All equipment used by a [street] mobile food vendor shall at all times be kept and maintained in a clean and sanitary condition. All openings therein shall be completely protected by glass or screening which shall be kept closed except when a customer is being served. An adequate water tank with faucets shall be installed therein from which fresh hot and cold running water shall be provided for hand washing only. Each [street] mobile food vendor shall at all times keep his or her hands clean and otherwise be clean and neat in appearance.

[§ 6-505.8. Product requirements.⁵⁹

No street mobile food vendor, except only as provided in §§ 6-505.9 and 6-505.10, shall hereafter sell or offer for sale any food products unless the same are made or prepared in a factory approved and licensed by the U.S. Department of Agriculture which furnishes its products in a sanitary wrapper or a sanitary bottle and unless, when sold, such food products are wrapped in the original factory wrapper or contained in the original bottle. With respect to all bottled drinks, the same shall be approved by the Health Officer, and all drinking straws furnished therewith shall be in an individual wrapper.]

[§ 6-505.9. Sale of hot dogs and pretzels.⁶⁰

⁵⁸ Harrisburg, Pennsylvania, Municipal Code § 5-505.7

⁵⁹ Harrisburg, Pennsylvania, Municipal Code § 6-605.8

⁶⁰ Harrisburg, Pennsylvania, Municipal Code § 5-505.9

(a) Street vendors shall hereafter be permitted to sell or offer for sale from carts wiener or frankfurter sandwiches, commonly known as "hot dogs," prepared by them for human consumption at the place of sale, provided that in so doing, the following conditions and regulations shall at all times be strictly complied with:

(1) All of the ingredients used in the aforesaid sandwiches, prior to the actual preparation thereof, such as rolls, frankfurters, onions, relishes and other spreads, shall at all times be kept in closed sanitary containers, compartments, steamers or cookers, as the case may be.

(2) In the actual preparation of the aforesaid sandwiches for sale or offering for sale, all rolls shall be handled only in clean sanitary paper, all wieners or frankfurters shall be handled only with a clean sanitary utensil, and all relishes and other ingredients thereof shall be placed therein or thereon in a clean, sanitary manner satisfactory to and approved by the Department.

(b) Street vendors shall hereafter be permitted to sell or offer for sale from carts, baskets or other suitable containers soft pretzels, provided that in so doing, the pretzels are handled only in clean sanitary paper or tongs and any condiments are in sealed, individually wrapped packages or placed thereon in a clean, sanitary manner satisfactory to and approved by the Health Officer.]

[§ 6-505.10. Additional food products.⁶¹

The sale of any food products is prohibited except with the approval of the Health Officer upon evidence of compliance with the food protection regulations of

⁶¹ Harrisburg, Pennsylvania, Municipal Code § 6-605.10

the Pennsylvania Department of Agriculture, 7 Pa. Code Ch. 46 (the Food Code), 10 copies of which are on file in the office of the City Clerk.]

[§ 6-505.11. Approval of facilities.⁶²

All installations, facilities and containers required under the provisions of this chapter shall comply with the standards contained in the latest edition of the "National Sanitation Foundation Regulations for Food Carts of 1986, No. 59," 10 copies of which are on file in the office of the City Clerk.]

§ 6-505.8. Fees and application process.

(a) A mobile food vendor shall annually pay the following:

(1) \$100 for the Mobile Food Vendor License;

(2) \$100 for the Health License; and

(3) \$25 for a filing fee.

(b) Each license shall apply to multiple 6 different locations throughout the city.

(1) A mobile food vendor may obtain one additional Mobile Food Vendor License.

(2) The city shall charge an additional \$100 in order for the mobile food vendor to operate at another 6 locations.

(c) The Health Officer, with assistance from city officials, shall establish an Application Review Committee.

(1) The Application Review Committee will receive mobile food vendor's license applications.

⁶² Harrisburg, Pennsylvania, Municipal Code § 5-505.11

(2) Within 30 days, the mobile food vendor shall receive notice from the Application Review Committee as to the status of their application.

§ 6-505.9[9]. Penalty.⁶³

(a) [Whoever] A person who violates any [of the terms,] provision[s or requirements] of this chapter, or the rules and regulations promulgated [thereunder] under this chapter, or refuses, neglects or fails to comply with any notice given to such person by a duly authorized representative of the City in conformity with or pursuant to the provisions of this chapter or of such rules and regulations, or obstructs or interferes with any person in the execution of this chapter, shall be subject to [Chapter 6-103, Enforcement and Penalty, of these Codified Ordinances] penalties established by the health officer and Application Review Committee.

(b) [Upon a second conviction under this chapter, the street vendor license of such operator may be revoked and/or suspended for a period of five years.] The city health officer may suspend for a period of one year or revoke the mobile food vendor license of a person convicted of a second offense under this chapter.

SECTION 2. SEVERABILITY

If any provision, sentence, clause, section or part of this ordinance or the application thereof to any person or circumstance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provision, sentences, clauses, section or parts of these ordinances. It is

⁶³ Harrisburg, Pennsylvania, Municipal Code § 6-605.99

hereby declared as the intent of the Council of the City of Harrisburg that these ordinances would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not been included herein.

SECTION 3. REPEALER

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect in accordance with the law.

Seconded by: _____