

*Amended*  
Ordinance 1777

AN ORDINANCE TO AMEND THE ZONING ORDINANCE REGARDING MOBILE FOOD VENDORS, ITINERANT VENDORS AND TEMPORARY USE PERMITS BY ADDING SECTIONS 1280, 1281, 1282, 1283, 1284, 4800 AND 4801; REPEALING SECTION 4530; AND AMENDING SECTIONS 2103, 3151, 3181, 3191 AND 3301

WHEREAS, in recent years, the number of food trucks has increased significantly nationally, as well as regionally;

WHEREAS, the Town of Blacksburg's Zoning Ordinance does not specifically address food trucks, food carts, or other mobile food vendors operating from temporary locations;

WHEREAS, the Zoning Ordinance also needs to be updated to address itinerant vendors and to establish processes for temporary uses; and

WHEREAS, the public necessity, convenience, general welfare and good zoning practice so require.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Blacksburg:

1. That the Zoning Ordinance is amended by adding Sections 1280, 1281, 1282, 1283, 1284, 4800 and 4801; repealing Section 4530; and amending Sections 2103, 3151, 3181, 3191 and 3301 as follows:

ARTICLE I. ADMINISTRATION  
DIVISION 18. TEMPORARY USE PERMITS

***Sec. 1280 Purpose.***

*(a) There are certain temporary uses that by their nature require additional regulation, beyond the general requirements applicable to a particular zoning district, to protect the welfare, safety and convenience of the public. The impacts of temporary uses are generally quantifiable and subject to mitigation by imposition of specific standards. Such uses may be allowed within designated zoning districts under the controls, limitations and regulations of the Temporary Use Permit established by this division.*

*(b) The Zoning Administrator may approve a Temporary Use Permit under the provisions of this division after concluding that the proposed temporary use complies with the applicable Use and Design Standards for the use.*

**Sec. 1281 Application.**

(a) *An application for a Temporary Use Permit may be made by (i) any person who is a property owner or (ii) by any lessee with written permission from the owner.*

(b) *The application shall be filed with the Zoning Administrator on forms provided by the Planning and Building Department. All information required for evaluation of the application shall be supplied and the applicant shall remit the fee established by Town Council for such permit. No application shall be deemed filed until all submission requirements have been met.*

(c) *The Zoning Administrator shall approve or deny an application for a Temporary Use Permit within forty-five (45) calendar days of filing. In the event the Zoning Administrator denies any application, the Zoning Administrator shall clearly identify the deficiencies that are the basis for the denial by reference to specific zoning ordinance sections and requirements.*

(d) *Whenever a Temporary Use Permit is denied by the Zoning Administrator, the applicant may take either of the following actions in lieu of accepting the decision as final:*

- (1) *Revise the application to satisfy the stated reason for denial, in which case the revised application shall be handled as a new application; or*
- (2) *Appeal the denial to the Board of Zoning Appeals in accordance with Zoning Ordinance § 1243.*

**Sec. 1282 Revocation or expiration of temporary use permit.**

(a) *A Temporary Use Permit may be revoked by the Zoning Administrator at any time due to the failure of the permit holder to observe all requirements of the Zoning Ordinance. Notice of the revocation shall be made in writing. Any person aggrieved by such notice may appeal the revocation to the Board of Zoning Appeals in accordance with Zoning Ordinance § 1243.*

(b) *A Temporary Use Permit shall be issued on an annual basis. Temporary Use Permits shall automatically expire twelve (12) months after the date of issuance and must be renewed by filing a new application and receiving approval from the Zoning Administrator.*

**Sec. 1283 Temporary use permit general requirements.**

(a) *All temporary uses shall satisfy the applicable Use and Design Standards.*

(b) *Issuance of a permit shall be conditioned upon the applicant's consent to reasonable inspections initiated by the Zoning Administrator to verify compliance with the requirements of this division, and a right of access for the Zoning Administrator to make such inspections.*

(c) *The Zoning Administrator shall have no authority to vary, modify, or waive any of the regulations or standards prescribed for any use for which a Temporary Use Permit is required, except that the Zoning Administrator may waive some or all application submission requirements that do not apply in a given situation.*

(d) *The Zoning Administrator may require a bond or other suitable guarantee sufficient to ensure (i) that signs, trash, temporary structures and debris will be removed from the site and from the immediate vicinity of the site; (ii) that the activity will not remain for longer than a temporary period; and (iii) compliance with applicable town ordinances. Such bond or guarantee shall be not less than one hundred dollars (\$100.00) nor more than one hundred thousand dollars (\$100,000.00), depending on the nature and extent of the proposed use. The bond or guarantee shall be forfeited to the Town if (i) the site is not adequately cleared of all trash, debris, signs and temporary structures, (ii) if the activity remains on the site after expiration of the permit, or (iii) if substantive violations of any applicable town ordinances occur.*

(e) *All activities to be conducted pursuant to a Temporary Use Permit shall be in compliance with all applicable town, county, state, and federal regulations.*

(f) *Use of all buildings and structures as part of a Temporary Use Permit shall be in compliance with all applicable building code regulations.*

**Sec. 1284 Temporary use permit – Types and Zoning Districts.**

*The following Temporary Use Permit Types are allowed in the listed zoning districts:*

- (a) *Itinerant Vendor – General Commercial (GC), Research and Development (R&D), and Office (O).*
- (b) *Mobile Food Vendor – General Commercial (GC), Research and Development (R&D), Office (O), Industrial (I), Planned Commercial (PC), Planned Industrial (PI), and Planned Residential (PR) on commercially designated parcels only.*

**ARTICLE II. – DEFINITIONS AND USE TYPES**

**Sec. 2103 Definitions of terms and use types.**

For the purposes of this ordinance, the words and phrases listed below in this section shall have the meanings described below.

\* \* \*

**ITINERANT VENDOR** — Any person who engages in, does, or transacts ~~any a~~ temporary or transient business in the Town and who, for the purpose of carrying on such business, occupies any location for a ~~period of less than 45 days~~ *maximum of seven (7) consecutive days at one time for no more than four (4) times per calendar year. For the purposes of the Zoning Ordinance, “Mobile Food Vendor” has a separate definition.*

\* \* \*

**MOBILE FOOD VENDOR** — *A readily movable wheeled cart, trailer, or vehicle designed and equipped for the preparing, serving, and/or selling of food and operated at temporary locations. This definition shall include food trucks and food carts.*

\* \* \*

**Sec. 3151 Permitted uses.**

(a) The following uses and structures are permitted by right subject to all other applicable requirements contained in this ordinance:

\* \* \*

**Commercial\***

Adult Entertainment Establishment  
Adult Store  
Automobile Renting/Leasing  
Automobile Parts/Supply, Retail  
Bed & Breakfast  
Brewpub  
Business Support Services  
Car Wash  
Clinic  
Commercial Indoor Establishment  
Commercial Indoor Amusement  
Commercial Indoor Sports and Recreation  
Communication Services  
Construction Sales and Services  
Consumer Repair Services  
Funeral Home  
Garden Center  
Grocery Store  
Hospital  
Hotel/Motel  
~~Itinerant Vendor~~  
Kennel, Commercial  
Neighborhood Convenience Store  
Parking Facility  
Pawn Shop  
Personal Improvement Services  
Personal Services  
Private Farmers Market  
Public Farmers Market  
Restaurant, Fast Food  
Restaurant, General  
Restaurant, Small  
Retail Sales  
Specialty Shop  
Studio, Fine Arts  
Veterinary Hospital/Clinic

\* \* \*

\*Without external speakers only. Any use which incorporates an external speaker may be permitted only with a conditional use permit.

\* \* \*

**Sec. 3181 Permitted uses.**

(a) The following uses and structures are permitted by right subject to all other applicable requirements contained in this ordinance:

\* \* \*

Commercial\*

- Business Support Services
- Clinic
- Communication Services
- Funeral Home
- ~~Itinerant Vendor~~
- Laboratory
- Parking Facility
- Personal Services
- Restaurant, Fast Food†
- Restaurant, General†
- Restaurant, Small†
- Studio, Fine Arts
- Veterinary Hospital/Clinic

\* \* \*

\*Without external speakers only. Any use which incorporates an external speaker may be permitted only with a conditional use permit.

†Permitted by right only as part of a multi-establishment building; otherwise by conditional use permit.

\* \* \*

**Sec. 3191 Permitted uses.**

(a) The following uses and structures are permitted by right subject to all other applicable requirements contained in this ordinance:

\* \* \*

Commercial\*

- Business Support Services†
- Business or Trade Schools†
- Communication Services†

Hospital  
~~Itinerant Vendor~~  
Laboratory  
Personal Improvement Services  
Restaurant, Fast Food†  
Restaurant, General†  
Restaurant, Small†

\* \* \*

\*Without external speakers only. Any use which incorporates an external speaker may be permitted only with a conditional use permit.

†Permitted by right only as part of a multi-establishment building; otherwise by conditional use permit.

\* \* \*

**Sec. 3301 Permitted uses.**

(a) The following uses and structures are permitted by right subject to all other applicable requirements contained in this ordinance:

\* \* \*

(b) The following may be allowed with a conditional use permit:

\* \* \*

Commercial  
Automobile Repair  
Bed & Breakfast  
Business Support Services  
Car Wash  
Commercial Indoor Sports and Recreation  
Funeral Home  
Gasoline Station  
Grocery Store  
~~Itinerant Vendor~~  
Pawn Shop  
Restaurant, Drive-in  
Retail Sales, Large Format

\* \* \*

## ARTICLE IV. – USE AND DESIGN STANDARDS

### ~~Sec. 4530 – Itinerant vendor.~~

- ~~(1) No signage permitted except temporary signs pursuant to Article V, Division 5.~~
- ~~(2) Setback requirements of the applicable zoning district must be met.~~
- ~~(3) Prior to establishment of the use, a plot plan shall be submitted to the Zoning Administrator identifying setbacks, parking, and signage, and the location of the use on the site, and the location of other structures on the site.~~
- ~~(4) No buffer yard, screening, landscaping, or site plan is required.~~

## DIVISION 8. TEMPORARY USES

### *Sec. 4800 Itinerant Vendor.*

*(a) Application Requirements. The following is required as part of a Temporary Use Permit application for an Itinerant Vendor:*

- (1) A town business license (or a statement from the Finance Department that no town business license is required).*
- (2) Written permission from the owner(s) of the private properties upon which the permit holder will operate.*
- (3) A general sketch to be approved by the Zoning Administrator for each proposed location, illustrating access to the site, all parking areas, routes for ingress and egress, placement of the Itinerant Vendor, distance from lot lines, garbage receptacles and any other feature associated with the Itinerant Vendor.*
- (b) General standards:*
  - (1) No signage shall be permitted except temporary signs pursuant to Article V, Division 5.*
  - (2) No buffer yard, screening, landscaping, or site plan is required.*
  - (3) An Itinerant Vendor shall not locate within fifty (50) feet of any RR-1, RR-2, R-4, R-5, OTR, or PR (non-commercially designated parcels) Zoning District.*
  - (4) An Itinerant Vendor shall be positioned on improved, designated parking spaces and shall not block (i) the main entry drive aisle or impact circulation overall, (ii) other access to loading areas, or (iii) emergency access and fire lanes. The Itinerant Vendor must also be positioned at least fifteen (15) feet away from fire*

*hydrants, any fire department connection (FDC), driveway entrances, alleys and handicapped parking spaces.*

**Sec. 4801 Mobile Food Vendor.**

*(a) Application Requirements. The following is required as part of a Temporary Use Permit application for a Mobile Food Vendor:*

- (1) A town business license (or a statement from the Finance Department that no town business license is required).*
- (2) Approval from the Virginia Health Department (as applicable) stating that the Mobile Food Vendor meets all applicable standards prior to operation. A valid health permit must be maintained for the duration of the Temporary Use Permit.*
- (3) Written permission from the owner(s) of the private properties upon which the permit holder will operate.*

*(b) Location*

- (1) A Mobile Food Vendor must be located on private property.*
- (2) A Mobile Food Vendor shall locate a maximum of two (2) days per calendar week at any one location within the town. For the purposes of this standard, a calendar week shall start on a Sunday and end on a Saturday.*
- (3) A Mobile Food Vendor and all materials associated with the business shall be removed from the location by 9:30 PM each day.*
- (4) No Mobile Food Vendor shall be located so as to obstruct a public sidewalk or the public right-of-way.*
- (5) Mobile Food Vendors shall not locate within fifty (50) feet of any RR-1, RR-2, R-4, R-5, OTR, or PR (non-commercially designated parcels) Zoning District.*
- (6) A Mobile Food Vendor selling prepared food shall not locate within one hundred (100) feet of an established restaurant during the restaurant's operating hours (determined by measuring from the edge of the Mobile Food Vendor to the foundation of the restaurant) unless permission of the restaurant owner is provided.*
- (7) A Mobile Food Vendor shall be positioned on improved, designated parking spaces and shall not block (i) the main entry drive aisle or impact circulation overall, (ii) other access to loading areas, or (iii) emergency access and fire lanes. The Mobile Food Vendor must also be positioned at least fifteen (15) feet away from fire hydrants, any fire department connection (FDC), driveway entrances, alleys and handicapped parking spaces.*



(c) *Hours of operation. Mobile Food Vendors are allowed to operate between the hours of 6:00 AM and 9:00 PM. No Mobile Food Vendor shall operate past 9:00 PM.*

(d) *Noise/Lighting.*

(1) *No amplified music shall be allowed. This includes music played inside the vehicle that is audible outside of the vehicle.*

(2) *The operation of the vehicle or use of a generator should not be loud enough to be plainly audible at a distance of 100 feet away. Excessive complaints about vehicle or generator noise will be grounds for the Administrator to require that the Mobile Food Vendor change locations on the site or move to another property.*

(3) *All portable or temporary lighting shall meet Town lighting requirements and may remain on until 9:30 PM to allow for the safety of the patrons and employees and to allow for the site to be cleaned properly.*

(e) *Dining Areas. One ten (10) × ten (10) area is allowed next to the Mobile Food Vendor. All activities must be wholly contained within this area, which may be covered or uncovered, with tables and chairs for dining or for a table with condiments for patrons. A generator may be placed outside of this area as long as its placement and operation conforms with all applicable use and design standards.*

(f) *Number of food trucks permitted. No more than three (3) Mobile Food Vendors may operate from the same lot at the same time. Use of the lot must at all times be in accordance with all other Town regulations.*

(g) *Signage. All signage shall be limited to the Mobile Food Vendor itself. Only the food products for sale, the name of the business and a price list shall be listed. Alternative signage not affixed to the Mobile Food Vendor is allowed when related to daily menu information only. This signage shall be located within five (5) feet of the Mobile food vendor and not exceed eight (8) square feet in size.*

(h) *Trash. A Mobile Food Vendor shall provide trash and recycling receptacles and employees shall properly recycle containers and dispose of all trash, refuse and compost that is generated by the patrons.*

(i) *Other*

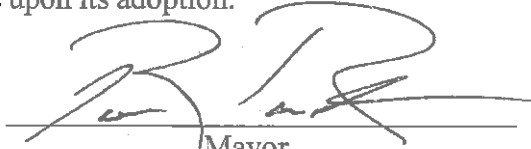
(1) *The sale of anything other than food and non-alcoholic beverages (and items incidental to the product and its consumption) is prohibited.*

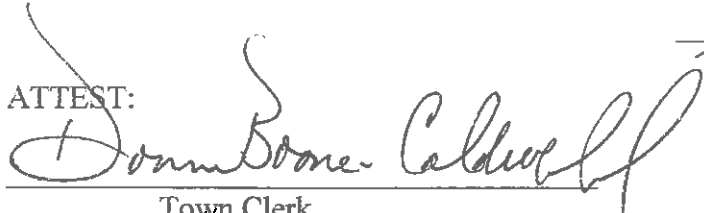
(2) *Mobile Food Vendors are allowed at public or private events as follows:*

(i) *in the zoning districts listed in § 1284 (b);*


(ii) *at events approved through Town Code §§ 15-101 and 21-612;*


- (iii) *at events conducted by the Town of Blacksburg; and*
- (iv) *at events conducted by Montgomery County public schools on school property.*
- (3) *The requirements of this section shall not apply to Mobile Food Vendors at catered events (events where the food is not sold through individual sales but provided to a group pursuant to a catering contract with a single payer).*
- (4) *No liquid wastes shall be discharged from the Mobile Food Vendor.*
- 2. That this ordinance shall be effective upon its adoption.

  
\_\_\_\_\_  
Mayor

ATTEST:  
  
\_\_\_\_\_  
Town Clerk

1<sup>st</sup> Reading: November 10, 2014  
2<sup>nd</sup> Reading & Adoption: January 12, 2016

APPROVED AS TO CONTENT:  
  
\_\_\_\_\_  
Planning and Building

APPROVED AS TO LEGAL SUFFICIENCY:  
  
\_\_\_\_\_  
Town Attorney