

**CITY OF BOULDER
PLANNING BOARD AGENDA ITEM**

MEETING DATE: June 2, 2016

AGENDA TITLE: Public hearing and consideration of a motion to recommend approval of an ordinance amending section 9-6-5(d) “Mobile Food Vehicle Sales,” amending section 9-16-1(c) “Definitions” to redefine “Mobile Food Vehicle” to include human powered vehicles, amending section 7-6-28, B.R.C. 1981 “Bicycle Parking” and setting forth related details.

REQUESTING DEPARTMENT:

Community Vitality
Jane S. Brautigam, City Manager
Mary Ann Weideman, Deputy City Manager
Tom Carr, City Attorney
Molly Winter, Executive Director, Community Vitality
David Driskell, Executive Director, Community Planning and Sustainability
Sandra M. Llanes, Senior Assistant City Attorney
Caeli Hill, Associate Planner, Planning Housing and Sustainability
Lane Landrith, Business and Special Events Coordinator, Community Vitality
Mishawn Cook, License & Collection Administrator, Finance Department
Teresa Jackson, Events Manager, Parks & Recreation

OBJECTIVE:

1. Hear Staff presentation
2. Hold Public Hearing
3. Planning Board discussion
4. Planning Board recommendation regarding the ordinance in the form of a motion

SUMMARY:

Proposal: Expand the current definition of mobile food vehicles to include non-motorized human powered food vehicles. The same set of application requirements related to mobile food vehicles would apply to non-motorized human powered food vehicles with two exceptions. Instead of requiring a driver’s license or auto insurance, the requirement for non-motorized human powered food vehicles would be a valid state issued picture identification and general liability insurance coverage. Sales would still be limited to the existing defined zones and areas but human powered food vehicles would not be able to sell in transit. Lastly, an exception was created to allow for parking of human powered mobile food vehicles in areas where you would normally see a motorized food vehicle parked.

Project Name: Human-powered Mobile Food Vehicle Code Amendment

BACKGROUND:

On April 26, 2011, the Boulder City Council passed an ordinance allowing mobile food vehicles that meet specific criteria, to operate in certain areas of the City of Boulder and subject to a defined set of rules. As of June 1, 2011, in order to legally operate a mobile food vehicle, operators must hold a standard city business license, and apply for and receive a mobile food vehicle license from the City of Boulder Licensing division.

Staff was directed by council to analyze the code to see if it would be possible to allow for human powered mobile food vehicles. Staff has identified that it is possible to allow for this new use but it will require amending the code in the following manner: changes to Chapter 9-6-5, B.R.C. 1981, "Temporary Lodging, Dining, Entertainment, And Cultural Uses," by amending section 9-6-5(d) "Mobile Food Vehicle Sales," Chapter 9-16-1, B.R.C. 1981 "General Definitions" by amending section 9-16-1(c) to redefine "Mobile Food Vehicle" to include human powered vehicles, and amending section 7-6-28, B.R.C. 1981 "Bicycle Parking" to allow for parking of human powered mobile food vehicles.

PROPOSAL:

Staff recommends that Planning Board recommend that City Council approve the proposed ordinance ([Attachment A](#)) which:

- Expands the definition of mobile food vehicles to allow for non-motorized human powered food vehicles.
- Current application requirements would continue to apply to non-motorized human powered food vehicles with the exception of requiring a driver's license or auto insurance. Instead the requirement would be for a valid state issued picture identification and general liability insurance coverage.
- Allows non-motorized human powered food vehicles to park on a roadway.
- Allows non-motorized human powered food vehicles to be located on a public sidewalk or path (where bicycles are allowed) when traveling from one destination to another but prohibits stopping for sales while in transit.
- Current standards still apply with respect to the areas in which sales are allowed.

ANALYSIS OF KEY ISSUES:

Staff was directed to examine the current code for Mobile Food Vehicles and determine if and how human-powered mobile food vehicles could be included. After an analysis of section 9-6-5(d) "Mobile Food Vehicle Sales", B.R.C. 1981, it was determined that the only regulatory barrier to allowing human-powered vehicles was the definition of mobile food vehicle in 9-16, B.R.C. 1981. By changing this definition, human-powered mobile food vehicles could be allowed. If a change to the definition were allowed, the only other aspect to allowing human-powered mobile food vehicles is to formulate the licensing requirements for this vehicle type, should they vary from those of motorized mobile food vehicles.

The proposed change to the definition of mobile food vehicle in 9-16-1, B.R.C. 1981 is as follows:

Mobile food vehicle means a readily movable, motorized-wheeled vehicle, a towed vehicle, **or a vehicle propelled solely by human power applied to pedals upon which**

any person may ride having two tandem wheels or two parallel wheels and one forward wheel which are more than fourteen inches in diameter, all designed and equipped to prepare, or serve, and sell food, but which does not include mobile vending carts as defined in Section 4-18-4, "University Hill Mobile Vending Cart Permit," and Section 4-11-12, "Mobile Vending Cart Permit," B.R.C. 1981.

To create an equitable process for the acquisition of a mobile food vehicle license for both human-powered and motorized vehicles, the standards for licensing will be modified to incorporate requirements for human-powered vehicles that are as consistent as possible with the requirements for motorized mobile food vehicles. The proposed changes include the requirement that a human-powered mobile food vehicle operator acquire and maintain a valid state issued picture identification card and insurance coverage pursuant to the requirements of section 4-1-8, "Insurance Required," B.R.C. 1981, rather than requiring a driver's license and auto insurance.

These requirements found in section 9-6-5(d)(1)(D)(i) and (ii), B.R.C. 1981 parallel the requirements for motorized food vehicles and are also the least cost restrictive to those who may choose to operate as a human-powered mobile food vehicle sales operator rather than a typical mobile food vehicle due to costs. In addition, these requirements provide the city with the ability to ensure that these vehicles will operate in a way that protects the public's health, safety and welfare.

Section 9-6-5(d)(1)(A), "Mobile Food Vehicles Sales," B.R.C. 1981 include details about where mobile food vehicles are allowed. Those same standards would apply to non-motorized human powered food vehicles. In keeping with the idea of maintaining equity between motorized and non-motorized food vehicles, staff included a restriction to sales in transit. See section 9-6-5(d)(3)(N), B.R.C. 1981 in [Attachment A](#).

In addition, we included an exception in 7-6-28(a)(4), B.R.C. 1981 that allows non-motorized human powered food vehicles to park where motorized food vehicles can park and an exception in 9-6-5(d)(3)(B), B.R.C. 1981 that allows them to be located upon a public sidewalk within the boundaries of a crosswalk, or within ten feet of an extension of any building entranceway, doorway, or driveway if there are traveling from one destination to another. The proposed exception would allow human-powered vehicles to be located in these areas only when in transit to another location.

The City of Boulder Licensing Office would continue to review and issue licenses for both motorized and non-motorized mobile food vehicles that operate within the City of Boulder. It does not appear that any additional city resources are necessary to accommodate this change. Additionally, this proposed change will allow for an increase in food diversity options.

PROCESS:

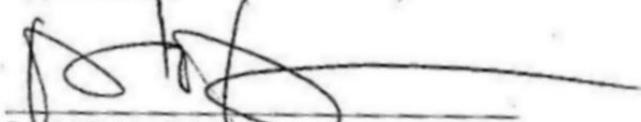
Upon the recommendation of Planning board this item will proceed to City Council for a first and second reading of the ordinance.

STAFF FINDINGS AND RECOMMENDATION:

Based on the information presented in this memorandum staff recommends that Planning Board recommend approval of the changes presented herein and in the attached draft ordinance in the form of the following motion:

Motion to recommend approval of an ordinance amending section 9-6-5(d) “Mobile Food Vehicle Sales,” amending section 9-16-1(c) “Definitions” to redefine “Mobile Food Vehicle” to include human powered vehicles, amending section 7-6-28, B.R.C. 1981 “Bicycle Parking” and setting forth related details.

Approved By:



David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS:

[Attachment A: Draft Ordinance](#)

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ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 9-6-5, B.R.C. 1981, "TEMPORARY LODGING, DINING, ENTERTAINMENT, AND CULTURAL USES," BY AMENDING SECTION 9-6-5(d) "MOBILE FOOD VEHICLE SALES," CHAPTER 9-16-1, B.R.C. 1981 "GENERAL DEFINITIONS" BY AMENDING SECTION 9-16-1(c) TO REDEFINE "MOBILE FOOD VEHICLE" TO INCLUDE HUMAN POWERED VEHICLES, AMENDING SECTION 7-6-28, B.R.C. 1981 "BICYCLE PARKING" AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 7-6-28 "Bicycle Parking," B.R.C. 1981, is amended to read:

7-6-28. - Bicycle Parking.

(a) No person shall park a bicycle or electric assisted bicycle in such a way as to:

- (1) Cause an obstruction to or impede the flow of traffic or of pedestrians on public or private sidewalks and paths;
- (2) Hinder or restrict access to handrails or ramps;
- (3) Lock the bicycle to a tree, parking meter post, or pay station serving a space designated for handicapped parking, or fire hydrant;
- (4) Park on a roadway except in an area designated for bicycle parking or unless licensed as a Mobile Food Vehicle pursuant to Section 9-6-5(d), B.R.C. 1981; or
- (5) Leave the bicycle locked to a pole or post owned or leased by a public authority for more than twelve consecutive hours.

(b) Persons stopping or parking bicycles or electric assisted bicycles shall obey all the provisions of this chapter regulating those activities on roadways, but are exempt from other provisions of this chapter unless specifically mentioned, notwithstanding their status as vehicles.

1 (D) No person shall operate a mobile food vehicle sales use without a permit or in
2 violation of the conditions of a permit. The permit will be valid for twelve
3 consecutive months, or such other time as the city manager may by rule designate.
4 Such application shall meet the following requirements:

5 (i) provide proof of, and maintain, a valid driver's license, motor vehicle
6 registration, and current motor vehicle insurance;

7 (ii) or in the case of a human powered mobile food vehicle; provide proof of, and
8 maintain, a valid driver's license or state issued picture identification card and
9 evidence of insurance coverage required by Section 4-1-8, "Insurance
10 Required," B.R.C. 1981;

11 (iii) provide proof of, and maintain, a Colorado retail food license for a mobile unit;

12 (iv) provide proof of, and maintain, a valid sales use tax license;

13 (v) provide payment of the fee prescribed by Section 4-20-66, "Mobile Food
14 Vehicle Sales," B.R.C. 1981.

15 (E) As a condition of accepting the permit, the applicant shall sign an agreement, in a
16 form acceptable to the city manager, in which the applicant agrees to meet all
17 requirements under this section and Chapter 4-1, "General Licensing Provisions,"
18 B.R.C. 1981, and assume responsibility for the actions and omissions of its agents
19 and employees in the performance of or failure to perform its obligation under the
20 permit.

21 (F) The city manager may, in his or her discretion, waive the requirements of
22 sSubsection (d)(1)(a)(ii) above if the applicant at the time of issuance, and each
23 renewal of the permit, submits to the city manager signed statements supporting the
24 issuance of the permit from every restaurant within 150 feet of the proposed food
25 truck location. The city manager may waive such requirements only for the BC-1
zone district. The city manager may deny a request for waiver for any reason, with
or without good cause.

(2) Scope:

(A) In addition to the zoning districts permitted by this section, mobile food vehicle
sales may take place in other public property locations, or in the public right of way,
but only as part of an approved organized event or street closure permit, and granted
pursuant to the authority in Section 4-18-2, "Public Property Use Permits," B.R.C.
1981, or any other relevant code section.

(B) The standards set forth in Subparagraphs (d)(1)(A) and (d)(3) shall not apply to
mobile food vehicle sales that meet the criteria as indicated in Subparagraph
(d)(2)(A) of this section, but shall be subject to any conditions imposed in
connection with the event. All other requirements of this subsection shall apply.

1 (C) The city manager may, from time to time, prohibit the issuance of additional
2 licenses in specified areas of the city in the interest of avoiding traffic congestion
or preserving the public health, safety, and welfare.

3 (3) Operating Requirements: No person who operates any mobile food vehicle on public
4 property or private property shall:

5 (A) obstruct the pedestrian or bicycle access or the visibility of motorists, nor obstruct
parking lot circulation or block access to a public street, alley, path, or sidewalk;

6 (B) locate any vehicle, structure, or device upon a public sidewalk within the extended
7 boundaries of a crosswalk, or within ten feet of the extension of any building
entranceway, doorway, or driveway;

8 (C) fail to maintain, and provide proof when requested, of written consent from the
9 private property owner authorizing the property to be used for the proposed use
with regard to mobile food vehicle sales on private property;

10 (D) fail to park legally;

11 (E) operate before 7 a.m. or after 9 p.m. and for more than a maximum of four hours at
12 any one approved location;

13 (F) set up any structures, canopies, tables, or chairs;

14 (G) sell anything other than food and nonalcoholic beverages;

15 (H) provide amplified music;

16 (I) place signs/banners in or alongside the public right of way or across roadways.
Signs must be permanently affixed to or painted on the mobile food vehicle;

17 (J) fail to have the vehicle attended at all times;

18 (K) fail to permanently display to the public in the food handling area of the mobile
19 food vehicle the permit authorizing such use;

20 (L) fail to provide at least three separate and clearly marked receptacles for trash,
21 recycling, and compost and properly separate and dispose of all trash, refuse,
compost, recycling, and garbage that is generated by the use;

22 (M) cause any liquid wastes used in the operation to be discharged from the mobile food
vehicle;

23 (N) sell in transit. "In transit" as used in this section shall mean traveling from one
24 destination to another either by roadway, sidewalk, or path and in the case of a
25 human powered mobile food vehicle shall also include any stops along the way.

(ON) fail to abide by all other ordinances of the city.

1 (4) The general licensing provisions of Chapter 4-1, "Licenses and Permits," B.R.C. 1981,
2 shall apply.

3 Section 3. Section 9-16-1 "General Definitions," B.R.C. 1981, is amended to read:

4 **9-16-1. - General Definitions.**

5

6 (c) The following terms as used in this title have the following meanings unless the context
7 clearly indicates otherwise:

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9 Mobile food vehicle means a readily movable, motorized-wheeled vehicle, a towed
10 vehicle, or a vehicle propelled solely by human power applied to pedals upon which any person
11 may ride having two tandem wheels or two parallel wheels and one forward wheel which are more
12 than fourteen inches in diameter, all designed and equipped to prepare, or serve, and sell food, but
13 which does not include mobile vending carts as defined in Section 4-18-4, "University Hill Mobile
14 Vending Cart Permit," and Section 4-11-12, "Mobile Vending Cart Permit," B.R.C. 1981.

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16 Section 3. This ordinance is necessary to protect the public health, safety, and welfare
17 of the residents of the city, and covers matters of local concern.

18 Section 4. The city council deems it appropriate that this ordinance be published by title
19 only and orders that copies of this ordinance be made available in the office of the city clerk for
20 public inspection and acquisition.
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1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 19th day of July, 2016.

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5 _____
6 Mayor
7 Attest: _____
8 City Clerk

9 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED
10 BY TITLE ONLY this ____ day of _____, 20__.

11
12 _____
13 Mayor
14 Attest: _____
15 City Clerk