



## Legislation Details (With Text)

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<b>Title:</b>	Ordinance To Amend And Re-Enact Chapter 15 Of The City Code Of The City Of Hampton, Virginia Entitled "Food and Food Establishments" By Adding a New Article VI Pertaining to Regulation of Mobile Food Service Facilities				

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Redline

Date	Ver.	Action By	Action	Result
5/24/2023	1	City Council Legislative Session	approved	Pass

Ordinance To Amend And Re-Enact Chapter 15 Of The City Code Of The City Of Hampton, Virginia Entitled "Food and Food Establishments" By Adding a New Article VI Pertaining to Regulation of Mobile Food Service Facilities

### Background Statement:

This amendment, if approved, would add a section requiring mobile food service facilities, or "food trucks", to obtain a "food truck permit" prior to operating in the city. In 2022, City Council directed staff to bring forward amendments which would streamline and improve food trucks' ability to operate in Hampton. This amendment, in conjunction with two related City Code amendments, and seven related Zoning Ordinance amendments, is staff's effort to achieve that directive.

The amendment would require food truck operators to obtain a permit, which would only be issued after the required health inspection, fire inspection, and business licenses are obtained. This singular permit would provide an easy point of reference for inspection purposes to identify food trucks able to do business in Hampton. The amendment would also require food truck operators to notify the city using a designated system at least 48 hours in advance of operating at an approved food truck host site.

If the set of seven zoning ordinance amendments are granted, "food truck host sites" would become a use within the Use Table, enabling operation of food trucks at various locations on property throughout Hampton. Additional standards proposed would define where on the property and how the food trucks would be allowed to operate. If the set of City Code amendments are granted, they will streamline the permitting and licensing process for food trucks by eliminating the peddler's permit and clarifying that food trucks are allowed as part of neighborhood special events.

### Recommendations:

Staff Recommendation:

Approval of the ordinance.

### **Sec. 15-140. - Definitions**

- (a) The term "mobile food service facility" shall mean a food establishment mounted on wheels (excluding boats in the water) readily moveable from place to place at all times during operation and shall include, but not be limited to, pushcarts, trailers, trucks, or vans. The facility, all operations, and all equipment must be integral to and be within or attached to the facility. A mobile food service facility may be referred to as a "food truck" for purposes of this article and is referenced as a "food truck" in the zoning ordinance.
- (b) The term "food truck operator" shall mean the individual or entity required to obtain a business license to operate a food truck.

**State Law reference-** Authority to regulate the production, preparation, storage, distribution and sale of food products and the facilities, equipment and vehicles used for such purposes, Code of Virginia, § 15.2-1109

### **Sec. 15-141. - Food Truck Permit Required**

- (a) All food trucks shall obtain an annual Food Truck Permit from the city manager or their designee prior to the advertising, displaying, offering or exchanging, for value any prepared or unprepared food. Prior to issuing the permit, the city manager shall determine that the food truck operator and food truck have first obtained the following approvals:
  - (1) A current City of Hampton business license issued by the Commissioner of the Revenue;
  - (2) A current health permit from the Virginia Department of Health; and
  - (3) A current City of Hampton Fire Division inspection approval.
- (b) The city manager or their designee is authorized and directed to develop an application process for annual Food Truck Permits as well as procedures for reviewing such applications.
- (c) After approval, food truck operators shall post a copy of the City of Hampton Food Truck Permit in the food truck. The food truck operator shall also maintain the following permits, licenses, and approvals in or on the food truck at all times, which shall be open to city inspection during all times of operation:
  - (1) A current City of Hampton Food Truck Permit;
  - (2) A current City of Hampton business license and decal issued by the Commissioner of the Revenue;
  - (3) A current health permit from the Virginia Department of Health;
  - (4) A current City of Hampton Fire Division inspection sticker; and
  - (5) Written permission of the private property owner, if applicable.
- (d) Failure to obtain a Food Truck Permit when required, or violation of the terms and conditions of an approved Food Truck Permit, by the same food truck operator, shall result in the following:
  - (1) First offense: a written notice of violation shall be issued by the city manager or their designee to the food truck operator.
  - (2) Second offense: a written notice of violation shall be issued by the city manager or their designee to the food truck operator. A person convicted of a second offense under this

article shall be guilty of a Class 4 misdemeanor punishable by a fine of up to \$250.00.

- (3) Third and any subsequent offense: a written notice of violation shall be issued by the city manager or their designee to the food truck operator. A person convicted of a third or subsequent offense under this article shall be guilty of a Class 3 misdemeanor punishable by a fine of up to \$500.00.
- (4) Each day this article is violated shall constitute a separate offense.
- (5) This section shall supersede the general requirement of Sec. 15-2 of the City Code.
- (e) The city manager may, after providing the opportunity for a hearing as provided herein, suspend or revoke a Food Truck Permit issued under the provisions of this article if the city manager finds that such person has violated any provision of this article on three (3) or more occasions within a twelve (12)-month period. If a Food Truck Permit is revoked, then the food truck operator, including any entities that the food truck operator manages or controls, shall not be eligible to apply for a new Food Truck Permit, for any food truck, for a period of one (1) year from the date of revocation. The City may further revoke any Food Truck Permit under the operation, management, or control of the food truck operator who has violated the provisions of this article three or more times.

**State Law reference-** Authority to regulate the production, preparation, storage, distribution and sale of food products and the facilities, equipment and vehicles used for such purposes, Code of Virginia, § 15.2-1109

#### **Sec. 15-142. - Operation Restricted to Approved Areas**

- (a) Food trucks may only operate in approved areas, as follows:
  - (1) Food trucks may operate on private and public property where the applicable zoning regulations allow food trucks and where approval has been granted by the Zoning Administrator or their designee as a permitted food truck host site. Prior to operation of the food truck, the food truck operator shall, a minimum of two (2) days in advance of the desired date of operation, notify the City of the selected food truck host site where the food truck will operate. The city manager is authorized to develop a notification process for this purpose. Each day a food truck operates on any authorized food truck host site requires such notification.
  - (2) Food trucks may operate on public streets only if the city manager has established one or more designated parking locations as spaces within the public right-of-way, which shall be subject to such reasonable parking rules as she may establish, including but not limited to the notification procedures set forth in subsection (a)(1). Unless and until such time as the manager may designate spaces within the public right-of-way for this purpose, operation of food trucks on public streets shall be prohibited except in accordance with Section 34-7 of the city code. Food trucks shall not be permitted to operate on private streets except as authorized by an approved special event permit.
  - (3) Within the boundaries of any area designated for a special event pursuant to Chapter 2 of the city code.

**State Law reference-** Authority to regulate the production, preparation, storage, distribution and sale of food products and the facilities, equipment and vehicles used for such purposes, Code of Virginia, § 15.2-1109