Town of Burnsville Zoning Ordinance

Mobile Food Vendor Information

Article 4, Section 400, Item 67 - Definition of Mobile food vendors

Any mobile food unit, pushcart or motor vehicle, including all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle, which is purposed for the sale for consumption of food and beverages. The sale of alcoholic beverages shall not be permitted by any mobile food vender absent the issuance of the requisite special event permit.

Article 6, Retail/Restaurants - Mobile Food Vendor - Zoning Districts Allowed

Purposed Use	R-10	C-1	C-2	C-3	I-1
Mobile Food Vendor	NP	PS	PS	PS	PS

"S" = Special Use "P" = Permitted "PS" = Permitted with Standards "NP" = Not Permitted

Article 7 - Use Standards Section 720 - (9) - Standards for Mobile Food Vendors

1. No waste, wastewater or grease shall be distributed into the sanitary sewer system, storm water system, or other public spaces.
2. Mobile food vendors:
    a. Shall be situated at least ten feet from all property lines, excepting those separating contiguous parcels under common ownership, and
    b. Shall not encroach onto any street or sidewalk, and
    c. Shall not obstruct any loading zone or parking space made requisite by this ordinance
    d. Shall not create a sight line obstruction.
3. Mobile food vendors shall be located at least 150 feet from any primary residential structure located within the R-10 Zoning District.
4. Mobile food vendors shall not be located within ten feet of any fire hydrant.
5. Hours on site shall be consistent with the hours of operation of the principal building or use of the property on which the mobile food vendor is located but in no instance shall such hours exceed 7:00 a.m. to 11:00 p.m.
6. Each mobile food vendor shall supply at least one receptacle for waste which must be emptied regularly and removed upon conclusion of hours of operation. Municipal waste receptacles shall not be used.

7. In addition to signage displayed directly on the vehicle, one sign attached to the ground, or menu board sign, which shall not exceed four feet in height or eight square feet of surface area, is permitted. Such a sign shall be placed within ten feet of the mobile food unit or vehicle and shall only be displayed during hours of operation.

8. The sale of alcoholic beverages shall not be permitted by any mobile food vender absent the issuance of the requisite special event permit.

9. Mobile food vendors seeking to locate on property owned or controlled by the Town of Burnsville must enter into the Mobile Food Vendor Contract and comply with all applicable requirements.

10. Mobile food vendors are also subject to standards of the Yancey County Health Department as it relates to the permitting, inspection and grading of all regulated food service establishments.

11. In no instance shall a mobile food vendor be permitted to be the primary or principal use of a parcel of land.

STATE OF NORTH CAROLINA **AGREEMENT TO RENT SPACE FOR MOBILE FOOD VENDING VEHICLES or FOOD TRUCK**

COUNTY OF YANCEY

THIS AGREEMENT ("Agreement") is dated as of _____ day of _____, 20__, and is by and between THE TOWN OF BURNSVILLE, a public body politic and corporate of the State of North Carolina (sometimes referred to herein as "Town"), and _____ (legal name of the entity owning mobile food vending vehicle or food truck - i.e. person, corporation, LLC) doing business in the State of North Carolina operating a Food Truck Service (sometimes referred to herein as "OWNER").

For purposes of this agreement the term "Food Truck" shall also mean and encompass Mobile Food Vending Vehicles (i.e. trailers, stands, carts or any other movable food vending apparatus) As defined in Article 4, Section 400 of the Town of Burnsville Zoning Ordinance, and pursuant to Article 7, Section 720(9) of the Town of Burnsville Zoning Ordinance.

TERMS AND CONDITIONS: Whereas, _____ the owner and operator of a mobile food vending vehicle or Food Truck Service, doing business as _____ _____, desires to lease space from the Town located adjacent to the Burnsville Town Center to operate a mobile food vending vehicle or Food Truck approximately _____ feet in length from/on _____(specify days of the week) between the hours of_____(specify hours of operation). Town and Owner will jointly decide the exact and appropriate location of said moveable food truck for set up and operation;

Whereas, Owner agrees to provide all set up and hook up apparatus and requirements for the food vending vehicle or food truck, including water and electricity. The Town makes no agreement to provide any water or electric service. Any agreements to the contrary regarding water or electric provisions must be set forth in a written addendum attached to this agreement. Set up and hook up of the food truck will be subject to the inspection and approval of the Town Public Works Director and/or his staff and at all times be in compliance with state and local law;

Whereas, Owner agrees the food truck will at all times remain moveable and will at no time become affixed in any way to the property in any temporary/permanent manner. Owner will provide 24 hour contact information to the Town in case an emergency situation arises and the food truck needs to be moved should it be left overnight on the premises. In extreme emergency situations the Town reserves the right and the Owner agrees that the Town may move the food truck from the premises if it is left after hours. Town assumes no liability or responsibility for any damages to the food truck while left unattended by the owner on the premises at any time. Town will not provide any type of security for the food truck other than routine patrol of the area as part of the Town Police regular duties during operating or after hours,

Whereas, the term of this rental period shall be weekly for the days and hours specified above. Unless terminated by the parties the rental period will automatically renew each week upon payment of rent in the amount for those days specified above. The rental amount shall be twenty-five dollars ($25.00) per day. Rent in the amount of $25.00 dollars is due for each day the food truck is located on the premises,

whether in operation or not. Checks shall be made payable to the Town of Burnsville. Rent shall be paid on the first day of that week in which the food truck is located on the property and shall include the amount for each day specified above for the entire week. (example: if truck plans to be on premises M,W, F rent for all three days is due on Monday) A week shall be defined as 7 days from Monday through Sunday. Rent, term and fees are subject to change without notice as determined by Town;

Whereas, either party may terminate this agreement for convenience upon 48 hours notice and all rents owing shall be paid in full at the time of the notice. Should the Town terminate the agreement, any rents paid for that week shall be refunded to the Owner on a pro rata basis. Upon notice of termination the food truck shall be removed as soon as possible from the premises, but in no case shall remain longer than 48 hours after notice is given. Should the food truck remain on premises past the 48 hour period, Town may have the food truck removed at the cost and expense of Owner. Notice of termination shall be delivered in written form to the Burnsville Town Center Manager and the Owner or his/her agent operating the food truck;

Whereas, this agreement may be terminated for cause, without notice, should any of the provisions in the agreement be violated. If the agreement is terminated for cause, the food truck must be removed from the premises immediately. If it is not removed immediately, Town may have it removed at Owners cost and expense;

Whereas, the Owner understands and agrees that the premises where the food truck is to be located is currently leased by the Town from private owners and pursuant to that lease the Town's leasehold interest in the property would cease should the private owners sell the property. This occurrence would require the immediate removal of the food truck from the site. Any rents already paid by Owner to the Town would be refunded on a pro rata basis;

Whereas, the Owner hereby agrees to remove the food truck from the site, upon reasonable notice, for any other reason or purpose deemed necessary by the Town other than the sale of the property by its current owners. For this provision "reasonable notice" shall be 48 hours;

Whereas, Owner hereby warrants that he/she has received any and all permits required by the State of North Carolina, the Yancey County Health Department and any other agency of the State or County necessary to legally operate a Food Truck in Yancey County North Carolina and has provided a copy of such required permits or certificates to the Burnsville Town Center Manager with the signed copy of this agreement. Owner agrees to allow any and all inspections by any agency of the State, County or Town authorized to make inspections in connection with the operation of the food truck. Owner agrees to comply with any and all federal, state and/or local laws while operating the food truck on Town property and will hold harmless and indemnify completely the Town for any and all liability, including court cost and attorney fees, stemming from any violation of regulations or laws for the use and operation of food trucks;

Whereas, at all times Owner will maintain the appearance of the food truck and the area surrounding the food truck in a neat and orderly manner. Trash receptacles will be placed in appropriate locations and will be emptied periodically to ensure they do not overflow or cause litter or noxious odors to become apparent in the area surrounding the food truck. At the close of each business period, Owner will remove and transport away from the food truck space any and all waste (food, paper, plastic etc.) and deposit the same in an approved garbage collection site away from the food truck. All trash

receptacles and other items associated with the food truck service will be either removed from the premises at the close of each business period or stored within the locked food truck;

Whereas, Owner agrees that it will not dump any waste, including but not limited to any oil, grease, food remains, dishwater or other wastewater into the Town's wastewater collection system at any time. The Town does not have a dumping/collection station for food truck waste and is unable to provide any place to dump, remove or treat any waste from the food truck. Owner warrants that there is an appropriate plan for handling wastewater and other waste products associated with the use and operation of a food truck and said plan is approved by any state or local agency that has oversight and/or permitting powers. Copies of any permits for such waste disposal shall be provided to the Burnsville Town Center Manager at the signing of this agreement;

Whereas, owner warrants that there are no hazardous chemicals or materials carried or used by the food truck that could cause health or environmental damage and will hold harmless and indemnify the Town for any and all injuries or damages should they occur related to the use of any material or chemicals by the food truck operation;

Whereas, Owner agrees that, should the food truck be moved for any reason, Owner will return the space used to its original state. This may include restoring any grass that is disturbed or destroyed by placement of the food truck in the space. And will leave the space in good repair at the time of removal of the food truck;

Whereas, Owner warrants that they will maintain current policies for the following insurance:

Commercial general liability in the amount of at least $1,000,000.00 per incident and $2,000,000.00 aggregate coverage. The Town of Burnsville shall be named additional insured.

Worker's Compensation – at the statutory limits in compliance with applicable State and Federal laws. The Contractor shall ensure that any subcontractors also have workers compensation coverage at the statutory limits.

Copies or certificates of said policies will be provided to the Burnsville Town Center Manager. Insurance shall be provided from reputable insurance companies licensed to do business in North Carolina.

Owner agrees to hold harmless and indemnify the Town for any and all cost, including court cost and attorneys fee, resulting from any illness or injury to person or property associated with the use and operation of the food truck.

Owner agrees to hold harmless and indemnify Town for any injury or illness to its workers while using or operating the food truck on Town property;

Whereas, Owner agrees to comply with any and all federal and state employment laws;

Whereas, Owner shall control customer parking and at no time shall allow food truck customers to block the public roadway or create a vehicular traffic or pedestrian hazard. Owner agrees to consult with Town police to develop a parking plan that will insure the safety of the public and customers of the food truck;

Whereas, Owner will consult and work with the Manager of the Burnsville Town Center to at all times to ensure that food truck use and operation will not interfere or impede use of the Burnsville Town Center;

Owner agrees to make reasonable accommodations at the request of Town for Town Center events and activities to ensure that the use of the Town Center will be unimpeded and safe;

Whereas, the parties intend that this Agreement shall be governed by the law of the State of North Carolina as follows:

LEGAL PROCEEDINGS: Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Burnsville, Yancey County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Yancey County, North Carolina.

Pursuant to Article 15, Section 1502(1), violations of this Agreement shall be treated as violations of the Town's Zoning Ordinance. This Agreement contains all of the agreements and representations between the parties with respect to the subject matter hereof. None of the terms of this Agreement shall be waived or modified to any extent, except by written instrument signed and delivered by both parties.

SEVERABILITY/SURVIVAL: If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect.

_____(Printed legal name of entity)

By: _____ (printed name)

_____(signature)

TOWN OF BURNSVILLE

By: _____
Corbin Cooper, Burnsville Town Center Manager

ADDENDUM

TO AGREEMENT TO RENT SPACE FOR MOBILE FOOD VENDING VEHICLES

BY AND BETWEEN THE TOWN OF BURNSVILLE ("TOWN") AND _____("OWNER)

The purpose of this Addendum to an *Agreement to Rent Space for Mobile Food Vending Vehicles* entered into between the Town of Burnsville ("Town") and _____ ("Owner") is to stipulate that Owner has rights to use the electric service connected to the Town at the Burnsville Town Center.

_____(Printed legal name of entity)

By: _____ (printed name)

_____(signature)

TOWN OF BURNSVILLE

By: _____
Corbin Cooper, Burnsville Town Center Manager