



Los Alamos County  
Community Development Department  
**PLANNING & ZONING COMMISSION STAFF REPORT**

**Public Hearing Date:** April 21, 2022  
**Subject:** Case No. ZCA-2021-0010, Ordinance No. 02-320, an ordinance amending the text of Chapter 16, Article I Section 9, Article VII Section 278, Section 288, and Article XIV Section 577 to adopt local regulations for mobile food vending  
**Applicant:** Los Alamos County, Community Development Department  
**Case Manager:** Sobia Sayeda, Senior Planner

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**Case No. ZCA-2021-0010:** A request for approval of ZCA-2021-0010, an application for a text amendment to Los Alamos County Code of Ordinances, Chapter 16, Article I Section 9, and Article VII Section 287, Section 288, and Section 577 to establish local regulations for mobile food vending. ***See Attachment A.*** If approved, the proposed text amendment would be implemented through the adoption of an ordinance, Ordinance 02-320. ***See Attachment B.***

## **BACKGROUND**

Background research has been conducted on the topic of mobile food vending from 2018 to present by Los Alamos County Community Development Department and Discoveries Action Team in partnership with Economic Development and Community Development Services. Extensive data was collected utilizing public survey conducted electronically between October 8<sup>th</sup> and November 8<sup>th</sup> 2021. ***See Attachment C.***

## **SUMMARY**

The proposed text amendments and associated draft ordinance address mobile food vending on private land, public land, and public right-of-way within Los Alamos County (“the County”). The proposed text amendments are submitted for consideration in response to increased demand and interest from local business owners to obtain a business license for food trucks to be operated in Los Alamos County.

Although the County’s Chapter 16 Development Code is currently undergoing an update process, the County is attempting to incorporate mobile food vending ordinance into County Code in order to have local regulations in place effective as soon as possible.

## **TEXT AMENDMENTS**

Utilizing data from research within the community and various comparable jurisdictions in the region as a guideline, staff has submitted proposed changes to County Code that address regulations regarding mobile food vending on private land, public land, and public right-of-way within the County.

Currently Los Alamos County Code of Ordinances is silent regarding (i.e., does not specifically address) mobile food vending. The proposed text amendment will provide local regulations for operating mobile food vending vehicles in Los Alamos County.

If approved, mobile food vending would be allowed as a permitted use in the Downtown - Neighborhood Center Overlay (DT-NCO), Downtown - Neighborhood General Overlay (DT-NGO), Downtown - Town Center Overlay (DT-TCO), Mixed-Use (MU), Light Commercial and Professional (C-1), Civic Center Business and Professional (C-2), Heavy Commercial District (C3), Professional Office (P-O), Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts.

Furthermore, mobile food vending would be allowed as a permitted use through obtaining a temporary use permit in the Downtown - Civic Public Open Space Overlay (DT-CPO), Public Land (PL), Recreation Wilderness (W-2), and all Residential (R) zoning districts.

The proposed changes include guidelines for decision-makers to consider regarding local regulations, such as establishing which districts mobile food vending vehicles are allowed in and various steps required to obtain a business license prior to operating a mobile food vending vehicle.

**Section 1.** Article I, Section 9 of Chapter 16 of the County Code of Ordinances of the Incorporated County of Los Alamos, is hereby amended, as follows:

Sec. 16-9. - Definitions and rules.

*Food truck* is a large, motorized vehicle, typically a van, truck, towed trailer, or a pedal-operated vehicle equipped to cook, prepare, serve, and/or sell food.

*Mobile food vending* means a motor vehicle, typically a van, truck, towed trailer, or a pedal-operated vehicle from which food and beverages are prepared and sold.

**Section 2.** Article VII, Section 278 of Chapter 16 of the County Code of Ordinances is amended, and replaced with the following:

Sec. 16-278. – Temporary Use

k. Temporary use permit.

1. All commercial and professional activities allowed in the Downtown (DT), Mixed-Use (MU), Light Commercial and Professional (C-1), Civic Center Business and Professional (C-2), Heavy Commercial District (C-3), Professional Office (P-O), Light Industrial (M-1), Heavy Industrial (M-2), Public Land (P-L), and Wilderness (W-2) districts may request a temporary use permit within those respective districts to conduct outdoor sales limited to not more than 30 calendar days cumulative in any 12-month period.
2. Mobile Food Vending in the Downtown - Civic Public Open Space Overlay (DT-CPO), Public Land (PL), Recreation Wilderness (W-2), and all Residential (R) zoning districts must apply for a temporary use permit within those respective districts to conduct business, unless otherwise the area is part of a special event sponsored by Los Alamos County and that use has been covered under those agreements. Mobile food vendors shall otherwise comply with the requirements of 16-278 (2)(I)(1).

l. Mobile Food Vending.

Mobile food vending shall be permitted in the Downtown - Neighborhood Center Overlay (DT-NCO), Downtown - Neighborhood General Overlay (DT-NGO), Downtown - Town Center Overlay (DT-TCO), Mixed-Use (MU), Light Commercial and Professional (C-1), Civic Center Business and Professional (C-2), Heavy Commercial District (C3), Professional Office (P-O),

Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts on private land, Public Land District (P-L), and public right-of-way subject to the following conditions:

- i. Applicants shall obtain a County business license and comply with the provisions of article II, chapter 12 of this Code if required.
  - ii. Applicants shall comply with all requirements of Los Alamos County Fire Department and obtain a County Fire Operational Permit.
  - iii. Mobile vending operating on private property in all non-residential zoned districts shall obtain and provide written consent from the private property owner(s) of properties on which they intend to operate.
  - iv. Mobile food vending sales shall comply with all applicable local, state and federal laws.
  - v. Mobile food vendors shall maintain trash receptacles and all areas used for food vending in a safe and clean condition and must dispose of waste in accordance with state health department regulations. Trash receptacles shall not impede on pedestrian or vehicular traffic in the vicinity of mobile food vending vehicle.
  - vi. Mobile food vendors shall comply/address gray water and grease waste per New Mexico State, Los Alamos County, and Department of Utilities regulations.
  - vii. Mobile food vendors shall state the make, model, and license plate number of each vehicle to be used for mobile food vending on the business license application.
  - viii. Mobile food vendors shall furnish the County with a valid food establishment permit issued by the state of New Mexico Environment Department. The food establishment permit shall be clearly displayed on the outside of the vehicle at all times.
  - ix. Each vehicle used for vending shall be individually permitted and shall clearly display the corresponding permit on the outside of the vehicle at all times.
  - x. Mobile food vendors participating in a special event shall follow all special events sponsored by Los Alamos County and temporary use permit requirements.
1. Mobile food vending is not allowed within twenty (20) feet of the entry to an existing drive-in, takeout, or enclosed restaurant.
2. Mobile food vending is not allowed within three hundred (300) feet of a special event sponsored by Los Alamos County unless the vendor is participating in the scheduled special event.
3. Mobile food vending vehicles shall comply with the provisions of noise ordinance article III, chapter 18 of this Code. Use of loudspeakers or amplification of sound by mobile food vending vehicles is prohibited.
4. Mobile food vendors shall at all times keep the area immediately surrounding the outside of their vehicle free of litter and refuse that originates from their operations. All litter originating from their vending operations shall be removed disposed of in accordance with local and state disposal requirements.
5. Mobile food vendors shall comply with all traffic and safety regulations, including
  - i. Use of parking spaces by mobile food vendors on public streets and public parking lots is allowed by first-come-first-served basis. Mobile food vendors shall not reserve parking spaces by the placement of obstructions intended to block or hold parking areas for their use.

- ii. Mobile food vendors shall not use or block accessible parking spaces dedicated for with significant mobility limitation or designated loading or short-term parking spaces.
  - iii. Mobile food vending operations shall in no case adversely affect public safety or the operations of adjacent parking areas, public streets, and sidewalks,
6. Upon receiving a written notice from the County for violations of the County Code or New Mexico State law, mobile food vendors shall correct all violations within (72) hours of receiving such notice. If the permittee does not correct the violations, the CDD Director shall revoke the mobile food vendor permit and permittee shall be subject to penalties pursuant to Section 1-8 of the Code.

**Section 3.** Article VII of Chapter 16 of the County Code of Ordinances is amended by adding a new use to Section 288, as follows:

Sec. 16-288. – Use index table.

The proposed additions include amending the Use Index Table by adding mobile food vending as a use category and then identifying within which zoning districts of the County these may be permitted, require temporary use permit, or are not permitted. As displayed in the segment of the proposed revised use index table below, mobile food vending is proposed to be allowed as either an outright permitted use or a permitted use by obtaining at temporary use permit in every County zoning district with the exception of the W-1 district, which is essentially the County’s designation for Open Space Wilderness areas.

Name	R-A	R-E	R-1	R-M	R-3-L	R-3-H	R-3-H-40	R-4	R-5	R-6	*P-D	C-1	C-2	C-3	R&D	M-1	M-2	W-1	W-2	P-O	DT-CPO	DT-TCO	DT-NCO	DT-NGO	MU
Mobile Food Vending	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P

**Section 4.** Article XIV, Section 577 of Chapter 16 of the County Code of Ordinances is amended as follows:

*(d) Public land district (P-L).*

- (1) Any unit of government owning land within the Public Land district (P-L) may use the land and structures in order to support community needs and the public health, safety and welfare. Where the land is to be used by any other person under a lease or contract with the unit of government, an application for a special use permit shall be applied for and acted upon by the planning and zoning commission. Under such circumstances, the land may be put to any use accessory to the governmental use or to any of the uses allowed in the Multiple-family Residential (high density) (R-3-H), Light Commercial and Professional (C-1), Civic Center Business and Professional (C-2), Heavy Commercial (C-3), Research and

Development (R&D), Light Industrial (M-1), Heavy Industrial (M-2), Scenic Open Lands (W-1), and Recreation Wilderness (W-2) districts, as may be appropriate, upon the approval of the application for a special use permit.

- (2) Within the P-L district Mobile Food Vending shall be permitted by obtaining a temporary use permit pursuant to Section 16-278 (2)(K)(1) of this Chapter.
- (3) The County may by policy set out specific areas in the County, where mobile vending is permitted without a temporary use permit, however all mobile vending shall otherwise comply with the requirements of 16-278 (2)(K)(1) Temporary use.

(e) *Wilderness districts (W-1 and W-2).*

- (3) Mobile Food Vending is allowed in the W-2 district by obtaining a temporary use permit pursuant to Section 16-278 (2)(K)(1) of this Chapter.

#### **INTERDEPARTMENTAL REVIEW COMMITTEE (IDRC) REVIEW**

On September 16, 2021, IDRC reviewed the application and unanimously approved to move it forward to the Planning and Zoning Commission for consideration and recommendation to County Council, without conditions.

#### **PUBLIC NOTICE**

Notice was provided at least 15 days prior to the public hearing within accordance to the Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sec. 16-192 (a), which includes:

- (1) Publication within the Los Alamos Daily Post, the County's official newspaper of record (published (3/21/2022); and
- (2) Posting at the Los Alamos County Municipal Building (4/8/2022)

#### **TEXT AMENDMENT REVIEW CRITERIA**

***Sec. 16-158. - Amendment to text. During the course of the review of any request for amendment to the text of this chapter, including determination of uses and addition, deletion or change in the Use Index, the IDRC shall utilize the following criteria in formulating a recommendation to the planning and zoning commission; and the planning and zoning commission shall utilize the following criteria in making its recommendation to the county council. The county council shall utilize the following criteria in making its determination of approval or denial:***

- 1. The request substantially conforms to the comprehensive plan and shall not be materially detrimental to the health, safety and general welfare of the county;***

**Staff Response:** The proposed text amendments are in response to growing needs of the food industry to provide mobile vending services in Los Alamos County. The proposed text amendments substantially conform to the comprehensive plan and promote economic vitality by offering both public and private venues for economic growth and providing a range of financially viable modes for small business growth. Allowing mobile food vending on private land, public land, and public right-of-way would not be materially detrimental to health, safety, and general welfare of the County, as County health and safety requirements would apply and be enforceable for any mobile food vending service providers. The proposed text amendments provide guidelines specifically for Los Alamos County. Therefore, as the County seeks to provide clarification and institute local

regulation regarding operating mobile food vending vehicles, the proposed text amendments conform with the comprehensive plan's goal to provide for the health, safety, and general welfare of the county.

2. *A request for amendment to the comprehensive plan shall, if necessary, be submitted concurrently with the request for amendment to the text of this chapter.*

**Staff Response:** The proposed text amendments apply to County development code only and would not require a subsequent amendment to the County's comprehensive plan.

3. *The proposed change will not result in land use inconsistent with the purpose of the district or incompatible with a use allowed in the district.*

**Staff Response:** The proposed text amendments will not result in land use inconsistencies with the purpose of the district or result in an incompatible use allowed in the district as mobile food vending would only be allowed within areas compatible with vehicular traffic and would not be permanent uses.

Proposed text amendments specify that food vending vehicles would be allowed to do business in particular districts under specifically defined parameters. Therefore, allowing mobile food vending in the County would not be inconsistent with existing zoning districts based on proposed text amendments.

4. *The proposed change will clarify existing language, remove redundant or inconsistent language or will simplify the understanding and implementation of the Code.*

**Staff Response:** The proposed text amendments will not result in land use inconsistent with the purpose of the district or result in an incompatible use allowed in a district as the proposed text amendments would define new language and would simplify the understanding and implementation of the Code by defining the terms pertaining to mobile food vending and specifying the areas within the districts it would be allowed. Therefore, the proposed text amendments would provide clarification specifically for Los Alamos County based on State guidelines.

## **FINDINGS OF FACT**

1. The application ZCA-2021-0010 is a request for approval of draft Ordinance No. 02-320, Text Amendments to Los Alamos County Code of Ordinances, Chapter 16, Article I Section 9, and Article VII Section 278, Section 288, and Section 577, to adopt local regulations for mobile food vending.
2. The proposed text amendments are in response to increased demand and interest from local business owners to obtain a business license for food trucks to be operated in Los Alamos County. Currently Los Alamos County Code of Ordinances is silent regarding mobile food vending. The proposed text amendments provide guidelines specifically for operation of mobile food vending vehicles in Los Alamos County. Therefore, as the County seeks to institute local regulation regarding allowing mobile food vending on private land, public land, and public right-of-way, the proposed text amendments conform with the comprehensive plan's goal to provide for the health, safety and general welfare of the county.

3. The proposed text amendments will allow mobile food vending in the Downtown - Neighborhood Center Overlay (DT-NCO), Downtown - Neighborhood General Overlay (DT-NGO), Downtown - Town Center Overlay (DT-TCO), Mixed-Use (MU), Light Commercial and Professional (C-1), Civic Center Business and Professional (C-2), Heavy Commercial District (C3), Professional Office (P-O), Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts. Furthermore, mobile food vending will be allowed by utilizing a temporary use permit in the Downtown - Civic Public Open Space Overlay (DT-CPO), Public Land (P-L), Recreation Wilderness (W-2), and all Residential (R) zoning districts.
4. The proposed text amendments apply to County development code only and would not require a subsequent amendment to the County's comprehensive plan.
5. The proposed text amendments will not result in land use inconsistent with the purpose of the district or result in an incompatible use allowed in a district as the proposed text amendments would define new language and would simplify the understanding and implementation of the Code by defining the terms pertaining to mobile food vending and specifying the areas within the districts it would be allowed. Therefore, the proposed text amendments would provide clarification specifically for Los Alamos County based on State guidelines.
6. Proposed text amendments specify that mobile food vending operations shall only be allowed in the Downtown - Neighborhood Center Overlay (DT-NCO), Downtown - Neighborhood General Overlay (DT-NGO), Downtown - Town Center Overlay (DT-TCO), Mixed-Use (MU), Light Commercial and Professional (C-1), Civic Center Business and Professional (C-2), Heavy Commercial District (C3), Professional Office (P-O), Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts. Furthermore, mobile food vending will be allowed by utilizing a temporary use permit in the Downtown - Civic Public Open Space Overlay (DT-CPO), Public Land (P-L), Recreation Wilderness (W-2), and all Residential (R) zoning districts. Therefore, mobile food vending would not be inconsistent with existing zoning districts based on proposed text amendments.
7. Notice of this public hearing, setting forth the nature of the request, and the date, time and place of the public hearing, was announced and published in The Los Alamos Daily Post, the official newspaper of record; all in accordance with the requirements of §16-192 of the Los Alamos County Development Code.
8. The proposed application, ZCA-2021-0010, including attached draft Ordinance No. 02-320, were presented to the Planning & Zoning Commission on 4/13/2022 for consideration of recommending approval of the application to the County Council.

## CONCLUSIONS OF LAW

After full hearing and consideration, the Planning and Zoning Commission finds that the application has met each applicable County Code text amendment criteria contained in §16-158 of the Los Alamos County Development Code and is acting under the authority granted it by §16-452(b)(1)(a) of the Development Code.

## MOTION

### Motion Option 1:

I move to **recommend approval** of Case No. ZCA-2021-0010 to County Council for text amendments to Los Alamos County Code, Chapter 16-543 as presented in the application. Recommendation is based on the Findings of Facts established at the hearing and conclusion that the application has met each applicable review criteria contained in §16-158 of the Los Alamos County Development Code and that the Commission is acting under the authority granted by §16-452(b)(1)(a) of the Development Code.

I further move to authorize the Chair to sign a Final Order approving the application and Findings of Fact and Conclusions of Law for this case, based on this decision and to be subsequently prepared by County staff.

**Motion Option 2:**

I move to **recommend denial** of application number ZCA-2021-0010, text amendments to Los Alamos County Code, Chapter 16 to County Council as the proposed text amendments do not conform to the review criteria within §16-158 of the Los Alamos County Development Code.

I further move to authorize the Chair to sign a Final Order recommending denial of the application to County Council, based on this decision and to be subsequently prepared by County staff.

**EXHIBITS**

Attachment A: Text Amendment Application (ZCA-2021-0010)

Attachment B: Draft Ordinance No. 02-320

Attachment C: Mobile Food Vending Survey Data