

ADMINISTRATIVE REPORT



TO: Planning & Development Committee

FROM: B. Newell, Chief Administrative Officer

DATE: May 5, 2022

RE: Zoning Regulation Review – “Mobile Vendor” (X2022.007-ZONE)

Administrative Recommendation:

THAT Bylaw No. 2800.02, a bylaw to amend the Okanagan Valley Zoning Bylaw to allow for “mobile vendor” in the Agriculture, Town & Village Centre, Commercial, Tourist Commercial, Industrial and Parks and Recreation (PR) zones, be brought forward for 1st & 2nd Reading and advertised for public hearing.

Purpose:

The purpose of this report is to provide options in relation to the zoning regulations to be applied to “mobile vendor” (i.e. food trucks) in the Okanagan Valley Zoning Bylaw.

Background:

At present, the only reference in the Okanagan Valley Zoning Bylaw to “mobile vendor” is an indirect one in the definition of “eating and drinking establishment” that excludes “mobile catering food services” as permitted type of restaurant use.

As a result, “mobile vendor” is generally seen to be prohibited in all zones, with the exception of the Parks and Recreation (PR) Zone. This is a result of having previously interpreted the definition of “park” to allow for “mobile vendor”, specifically:

*“**park**” means any publicly-owned, held or beneficially owned outdoor land or facility specifically designed for passive or active recreation including tot-lots, playgrounds, walkways, trails, band shells, greenbelts, buffers, nature interpretation areas, or similar land uses, including all uses permitted in Provincial Parks, and all natural and constructed landscaping, facilities, playing fields, buildings and structures consistent with the general purpose of public park land;*
[emphasis added]

Consequently, property owners seeking to operate a food truck (or similar) outside of a PR Zone are required to obtain the approval of the Regional District.

The only example of this occurring was in 2017 when a Temporary Use Permit (TUP) was approved for a “mobile food truck” to operate at 9418 Highway 97 in Electoral Area “A”, which is zoned Tourist Commercial (CT1) (NOTE: this permit expired in 2020 and was not renewed).

On April 14, 2022, the Regional District announced the launching of a pilot program for “seasonal mobile food vending licences”, beginning in Spring of 2022, to operate in Christie Memorial Park, Kenyon Park, Manitou Park and the Similkameen Recreation Centre.

A review of the zoning regulations applied to food trucks by other local governments in the region indicates a variety of approaches and is summarized at Attachment No. 1.

Analysis:

The current zoning regulations that pertain to “mobile vendor” may be unduly restrictive, having not kept pace with regulatory approaches adopted by some of the member municipalities, that the current interpretation allowing this use in the PR Zone is not clear and, in light of the recently announced licencing program, that there is a benefit to a clearer regulatory being introduced.

While a number of options are available, permitting “mobile vendor” as a permitted accessory use in the Agriculture, Town & Village Centre, Commercial, Tourist Commercial, Industrial and Parks and Recreation (PR) zones may resolve the concern due to the occurrence of commercial uses in these zones and, in the case of the Agriculture zones, the occurrence of food trucks at wineries and fruit stands.

Due to the nature of events held at the various parks in the Regional District allowing “mobile vendor” is also seen to be appropriate and consistent with the historic interpretation of the “parks” use.

For parcels that are in the Agricultural Land Reserve (ALR), it is likely that a “non-farm use” approval from the Agricultural Land Commission (ALC) would be required prior to operating a food truck. Similarly, approval from the Ministry of Transportation and Infrastructure (MoTI) may be required if it is proposed to place a truck in close proximity to the road network (e.g. Highway 97).

Alternately, other options are available, such as:

1. Status Quo: no amendment to the zoning bylaw is made and the allowance for food trucks and similar vending units in parks continues to be through an interpretation of the “parks” definition, while they remain prohibited in all other zones;
2. Prohibition: if the allowance for food trucks in parks is seen to be inappropriate, the zoning bylaw can be amended to exclude the occurrence of these from the PR Zone. Under this option the “seasonal mobile food vending licences” program would have to be cancelled;
3. Permit in All Zones: “mobile vendor” would be listed as a permitted use in all zones, meaning food trucks could be placed in residential areas.
4. Permit in a Limited Number of Zones: the range of zones in which “mobile vendor” are permitted can be modified as directed by the Board.

For instance, the Agricultural zones could be excluded due to compliance issues with ALC regulations, or the Town and Village Centre zones could be excluded to avoid competition with traditional “eating and drinking establishments.”

Consideration could be given to also allowing “mobile vendor” in additional zones, such as the Administrative and Institutional zones (e.g. Naramata Centre).

Respectfully submitted



C. Garrish, Planning Manager

Attachments: No. 1 – Comparison of Local Government Zoning Regulations for Mobile Vendor

Attachment No. 1 – Comparison of Local Government Zoning Regulations for Mobile Vendor

Jurisdiction	Permitted Zones	Zoning Regulations
Penticton	All City owned land (i.e. parks) All Commercial Zones General Industrial (M1) Zone	Maximum 20 m ² ground coverage
Summerland	[not specified]	[not specified – business licence required]
Osoyoos	Parks and Recreation (PR) Zone	[not specified]
Oliver	All Town owned land (i.e. parks) All Commercial Zones	Maximum 20 m ² ground coverage
NORD	[not specified]	[not specified]
CORD	[not specified]	[not specified]
Peachland	Parks and Open Space (P-1) Zone	[not specified]
West Kelowna	All zones	[not specified]
Kelowna	[not specified]	[not specified – business licence required]
Lake Country	[not specified]	[not specified – business licence required]
Salmon Arm	Various Commercial & Industrial, Parks and Recreation (P-1), Institutional (P-3) and CD zones	[too extensive to list]
Kamloops	Various Commercial & Industrial, Parks and Recreation (PR) and Institutional (P4) zones	Maximum 30 sq. ft. floor area 9am to 9pm operating hours
Armstrong	Various Commercial & Industrial zones	Maximum one (1) per parcel
Merritt	Various Agriculture, Commercial and Parks and Recreation zones	gross vehicle weight of 6,350 kg; or Maximum 10 m ² area (pop-up installations)