



# DEVELOPMENT SERVICES

## RULE INTERPRETATION DETERMINATION

**Determination #:** 2019-001

**Title:** Mobile Retail Establishment

**Drafted by:** Policy Administration

**Rule in Question:** Section 35-391 Temporary Uses of the Unified Development Code (UDC)

**Department Action:** Clarification of Mobile Retail Establishments and future UDC amendment

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3/29/19  
Date

**Effective Date of Determination:** Immediately

*Please note RIDs often result in direct or related UDC amendments to codify the clarification addressed within the RID. RIDs can also be superseded by subsequent RIDs or UDC amendments. The Development Services Department will remove RIDs from the website when they are no longer valid.*

### **Staff Analysis:**

This RID is a customer and staff clarification effort to address issues relating to “mobile retail”, specifically the associated interpretations and business processes. “Mobile retail” is not currently represented in the UDC, however, staff is seeing an emerging trend among microbusinesses forgoing bricks and mortar operations and opting for more mobile establishments. The UDC has several classifications that are similar in how they operate but provides no specific category.

Currently, the UDC classifies a self-contained unit, either motorized or in a trailer on wheels, that sells food or beverages on a property that is not owned by the vendor as a “mobile food establishment”. Where three (3) or more mobile food establishments gather on a parcel or group of parcels to sell food or beverages to the public and is the primary use of the land, the

UDC classifies it as a “mobile food court” which is governed by section 35-399 and is defined in 35-A101, “food, mobile food court”.

The City Code also provides a definition for peddlers and hawkers within Chapter 16 Article 9 Peddlers, Hawkers, Canvassers; Solicitors. Section 16-239, of the City Code and places a limit of three (3) times a month on a person or entity to peddle, canvas or solicit any tangible property or service on any portion of privately owned real property This does not address the mobile retailers who stay on a privately owned property longer than three (3) times within a calendar month.

### **Staff Position and Interpretation:**

UDC Section 35-391 Temporary Uses is intended for temporary occupancy of a site that is limited to thirty (30) days or less, and does not involve the erection of a substantial structure or substantial alterations of the property. Typical temporary uses include circuses, Christmas tree sales, construction trailers, and others, just to name a few. Temporary uses are subject to the UDC Section 35-391 Temporary Uses and require the following:

- Apply for a Temporary Use Application with the Development Services Department
  - Provide proof of motor vehicle and/or trailer registration
  - Provide description of items to be sold
- Apply for a Temporary Certificate of Occupancy.

Mobile retail uses are not temporary in nature as was intended with 35-391. Mobile retail establishments can occupy temporary buildings or mobile trailers, but the purpose is to occupy as space as an incubator site to eventually find a more permanent location if successful. The intent of this RID is to classify these uses and ensure mobile retail establishments are operating within the parameters of the zoning district and help to negate any potentially negative impacts associated with increased activity for adjacent commercial or residential properties.

Staff proposes including a definition for “mobile retail establishment” to the UDC:

“Mobile retail establishment means selling goods or merchandise from a self-contained unit, either motorized or in a trailer on wheels to the general public for personal or household consumption and rendering services incidental to the sale of such goods.”

Staff recommends that mobile retail establishments be permitted by right in “C-2” and “C-3” Commercial Districts and subject to the following proposed Supplemental Use Regulations to be listed in Division 7 of Article 3 in Chapter 35:

- An operational brick and mortar building is onsite
- The use of each individual unit is permitted in the zoning district
- The mobile retailer obtains written permission from the property owner
- The addition of the mobile retail establishment does not decrease the number of required onsite useable parking spaces for the primary use as set forth in Section 35-526, Table 526-3B.

- Shipping container storage unit may not be used to operate as a mobile retail establishment. This does not include shipping container storage units modified to meet city code for occupancy.
- Apply for a Temporary Mobile Retail Use Permit for each unit and be subject to city code.
- Distances between units, from the primary structures and property lines will be determined by code.

Staff recommends that mobile retail establishments be permitted with an “S” Specific Use Authorization in the “C-2” and “C-3” Commercial Districts, without an operational brick and mortar building and subject to the following proposed Supplemental Use Regulations to be listed in Division 7 of Article 3 in Chapter 35:

- The use of each individual unit is permitted in the zoning district
- The mobile retailer obtains written permission from the property owner
- The addition of the mobile retail establishment does not decrease the number of required onsite useable parking spaces for the primary use as set forth in Section 35-526, Table 526-3B.
- Shipping container storage unit may not be used to operate as a mobile retail establishment. This does not include shipping container storage units modified to meet city code for occupancy.
- Apply for a Temporary Mobile Retail Use Permit for each unit and be subject to city code.
- Distances between units, from the primary structures and property lines will be determined by code.

Should the mobile retail establishment have three (3) or more mobile food trucks, the use is classified as a Mobile Food Court and subject to 35-399.

**Future UDC Amendments:**

To codify this interpretation, staff suggests the following UDC amendments to include a definition of *mobile retail establishment* in Appendix A, classification in the Permitted Use Table, subject to specific Supplemental Use Regulations:

**Table 311-2 Non-Residential Use Matrix**

TABLE 311-2 NONRESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1 & O-	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Retail	<a href="#">Mobile Retail Establishment (Subject to 35.400 (a))</a>					P	P					P	
Retail	<a href="#">Mobile Retail Establishment (Subject to 35.400 (b))</a>					S	S					P	

## **Division 7: Supplemental Use Regulations**

**Section 35-400 (a) - Mobile Retail Establishment permitted by right.** These uses are allowed in accordance with the following criteria:

1. An operational brick and mortar building is onsite
2. The use of each individual unit is permitted in the zoning district
3. The mobile retailer obtains written permission from the property owner
4. The addition of the mobile retail establishment does not decrease the number of required onsite useable parking spaces for the primary use as set forth in Section 35-526, Table 526-3B.
5. Shipping container storage unit may not be used to operate as a mobile retail establishment. This does not include shipping container storage units modified to meet city code for occupancy.
6. Apply for a Temporary Mobile Retail Use Permit for each unit and be subject to city code.
7. Distances between units, from the primary structures and property lines will be determined by code.

**Sec. 35-400 (b) - Mobile Retail Establishment requiring Specific Use Authorization.**

These uses are allowed in accordance with the following criteria:

1. There is no operational brick and mortar building onsite
2. The use of each individual unit is permitted in the zoning district
3. The mobile retailer obtains written permission from the property owner
4. The addition of the mobile retail establishment does not decrease the number of required onsite useable parking spaces for the primary use as set forth in Section 35-526, Table 526-3B.
5. Shipping container storage unit may not be used to operate as a mobile retail establishment. This does not include shipping container storage units modified to meet city code for occupancy.
6. Apply for a Temporary Mobile Retail Use Permit for each unit and be subject to city code.
7. Distances between units, from the primary structures and property lines will be determined by code.

### **Appendix A Definitions:**

**Mobile retail establishment** means selling goods or merchandise from a self-contained unit, either motorized or in a trailer on wheels to the general public for personal or household consumption and rendering services incidental to the sale of such goods.