

# CITY OF MASON

201 West Ash St.  
Mason, MI 48854-0370

City Hall 517-676-9155  
Fax 517-676-1330

## PLANNING COMMISSION MEETING - COUNCIL CHAMBER

Tuesday, March 15, 2016

6:30 p.m.

### Agenda

1. Call to Order
2. Roll Call
3. Approval of Minutes: February 9, 2016
4. People from the Floor
5. Announcements
6. Public Hearing
  - A. Ordinance – Medical Marihuana
    - A Resolution Recommending that the City Council Adopt an Ordinance to Amend Section 94-173 – Supplemental Use Regulations – by Adding Subsection (k) Medical Marihuana – which Defines Medical Marihuana and Sets Forth the Requirements for Compliance with the Michigan Medical Marihuana Act Of 2008
    - A Resolution Recommending that the City Council Repeal Article III of Chapter 10 – Businesses – Sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 that Regulate Medical Marihuana Caregiver and Dispensaries
7. Regular Business
  - A. Discussion – Food Truck Ordinance
8. Unfinished Business
9. New Business
10. Correspondence
  - Planning & Zoning News, February 2016
11. Liaison Reports
12. Director's Report
13. Adjournment

**CITY OF MASON  
PLANNING COMMISSION MEETING  
MINUTES OF FEBRUARY 9, 2016**

Chair Reeser called the meeting to order at 6:30 p.m. in the Training Room at 201 W. Ash Street, Mason, Michigan.

Present: Commissioners: Barna, Hagle, Hude, Reeser Sabbadin, Scott, Waxman  
Absent: Commissioner: Brown (excused), Fischer (excused)  
Also present: David Haywood, Zoning & Development Director  
Deborah J. Cwiertniewicz, City Clerk

**OATH OF OFFICE**

City Clerk Cwiertniewicz administered the oath of office to Ed Reeser.

**APPROVAL OF MINUTES:**

**Regular Minutes of January 12, 2016**

The regular meeting Minutes of January 12, 2016 were approved as submitted.

**PEOPLE FROM THE FLOOR**

None.

**ANNOUNCEMENTS**

None.

**REGULAR BUSINESS**

**Motion – Medical Marihuana Draft Ordinance**

Haywood stated that the city attorney had reviewed the draft ordinance and provided comment. The draft ordinance was revised and is presented for consideration.

MOTION by Waxman, second by Sabbadin,  
to direct staff to prepare a final draft ordinance regarding medical marihuana,  
provide a recommendation to City Council, as well as set a public hearing date.

**MOTION APPROVED**

**Discussion – Food Truck Ordinance**

Cwiertniewicz provided the Planning Commission with topics of interest and concern compiled from various boards and commissions that have discussed matters concerning a food truck business. Discussion ensued regarding allowable locations.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

None.

**CORRESPONDENCE**

Distributed.

**LIAISON REPORTS**

No report at this time.

**DIRECTOR REPORT**

Haywood informed the Commission regarding current zoning and development business.

**ADMINISTRATOR'S REPORT**

No report.

**ADJOURNMENT**

The meeting adjourned at 7:15 p.m.

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Deborah J. Cwierniewicz, City Clerk

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Seth Waxman, Secretary

# City of Mason

201 W. Ash St.  
P.O. Box 370  
Mason, MI 48854-0370  
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## MEMORANDUM

TO: Planning Commission

FROM: David E. Haywood, Zoning & Development Director 

RE: Draft Medical Marihuana Ordinance – Resolution

DATE: March 10, 2016

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At the February 9, 2016 meeting, the Planning Commission reviewed the third draft of the medical marihuana ordinance, which incorporated prior review comments related to the City Attorney's memo of February 2, 2016, which were the following:

1. Entity Restrictions, as provided at Section (k)(4)c – **the City Attorney has indicated that the City may impose this restriction**
2. Restriction on location for assisting a qualified patient by a primary caregiver at Section (k)(4)(f)5 – **the City Attorney is recommending that we not impose this restriction**
3. Registration requirements at Section (k)(6) – **the City Attorney has indicated that this requirement is not lawful**

At the meeting, the Planning Commission directed staff to prepare a final draft ordinance and set a public hearing for March 15, 2016. It has been reviewed and approved by the City Attorney and is now in form for recommendation to the City Council.

You will notice that the ordinance now has the complete Section 94-173, which includes subsections (a) through (k). Prior drafts only showed subsection (k) for convenience. Including the entire section and all subsections is required by City Charter.

At the March 9, 2016, City Council meeting, the City Attorney gave a brief overview of his February 2, 2016 memorandum and the current status of the proposed ordinance. City Council was provided a copy of the proposed ordinance for review and comment at the meeting. The discussion among Council members shifted to asking the question, "what's the purpose of an ordinance, if it is essentially the same as the state law?". There appeared to be no objection from the City Attorney if the Council were to take no action on the proposed ordinance and repeal the existing ordinance. There appeared to be a consensus among the Council on this issue. Therefore, staff is recommending that we propose two ordinances

amendments, one that provides the proposed ordinance as it has been prepared to date, and a second that essentially recommends that they not adopt a new ordinance, but repeal the existing ordinance.

**Recommended Actions:**

**The Planning Commission discuss and select from the following options:**

- 1. The Planning Commission approve the attached resolution the sets forth a new ordinance to regulate medical marihuana.**
- 2. The Planning Commission approve the attached resolution that repeals the existing regulations related to medical marihuana.**

Introduced:  
Seconded:

**CITY OF MASON  
PLANNING COMMISSION RESOLUTION NO. 2016-\_\_**

**A Resolution Recommending that the City Council Repeal Article III of  
Chapter 10 – Businesses – Sections 10-70, 10-71, 10-72, 10-73, 10-74 and  
10-75 that Regulate Medical Marihuana Caregiver and Dispensaries**

**March 15, 2016**

**WHEREAS**, the People of the state of Michigan have adopted, by initiative, the Michigan Medical Marihuana Act (the "Act"); and

**WHEREAS**, the Act authorizes primary caregivers to assist qualifying patients in obtaining medical marihuana by allowing the primary caregiver to grow, possess, and deliver limited amounts of marihuana to the patients and receive compensation for doing so; and

**WHEREAS**, the Mason Planning Commission has studied how to effectively regulate dispensaries and primary caregiver operations, including public input, to meet the intent of the Act while preserving the health, safety and welfare of its citizens; and

**WHEREAS**, the City of Mason, as part of the regulatory process, on March 17, 2014 adopted an ordinance requiring primary caregiver operations and dispensaries to be licensed; and

**WHEREAS**, the City of Mason has not received any applications for licenses for primary caregiver operations or dispensaries; and

**WHEREAS**, the Planning Commission, after considerable deliberation, legal advice, public input, case law review, and research, has determined that restrictions on the activities related to medical marihuana, registered patients and caregivers that are inconsistent with the Michigan Medical Marihuana Act of 2008 would be very challenging to enforce and/or unlawful; and

**WHEREAS**, the Planning Commission has determined that it does not make sense to impose a local ordinance so similar to the Michigan Medical Marihuana Act of 2008, which is already enforceable by the Mason Police Department; and

**WHEREAS**, a public hearing on the ordinance was noticed and held at the Planning Commission's regular meeting of March 15, 2016, with testimony given and public comment solicited in accordance with Section 94-101 of the Mason Code; and

**WHEREAS**, the Mason Planning Commission recommends repealing Article III of Chapter 10, Businesses, Sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 of the Code of the City of Mason.

**NOW THEREFORE BE IT RESOLVED**, that the City of Mason Planning Commission does hereby recommend that the City Council adopt the attached ordinance to Amend Section 94-173 – Supplemental Use Regulations – by Adding Subsection (k) Medical Marihuana, which Defines Medical Marihuana and Sets Forth the Requirements for Compliance with the Michigan Medical Marihuana Act Of 2008 and to repeal Article III of Chapter 10, Businesses, Sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 of the Code of the City of Mason.

Yes ( )

No ( )

**CLERK’S CERTIFICATION:** I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Planning Commission at its regular meeting held Tuesday, March 15, 2016, the original of which is part of the Planning Commission minutes.

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Deborah J. Cwierniewicz, Clerk  
City of Mason  
Ingham County, Michigan

Introduced: \_\_\_\_\_  
First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Effective: \_\_\_\_\_

## CITY OF MASON

### AN ORDINANCE TO REPEAL MEDICAL MARIHUANA REGULATIONS

AN ORDINANCE TO AMEND CHAPTER 10 – BUSINESSES –  
BY REPEALING ARTICLE III, SECTIONS 10-70, 10-71, 10-72,  
10-73, 10-74, AND 10-74

#### THE CITY OF MASON ORDAINS:

Article III of Chapter 10, Businesses, Sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 of the Code of the City of Mason is hereby repealed in its entirety from the Code of the City of Mason.

**Effective Date.** This ordinance shall take effect upon the expiration of 20 days after its adoption.

The foregoing Ordinance was moved for adoption by Council Member \_\_\_\_\_ and supported by Council Member \_\_\_\_\_, with a vote thereon being: YES ( ) NO ( ), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the \_\_\_\_ day of \_\_\_\_\_, 2016. Ordinance No. \_\_\_\_ declared adopted this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mike Waltz, Mayor

\_\_\_\_\_  
Deborah J. Cwierniewicz, City Clerk

\_\_\_\_\_  
Thomas M. Hitch (P25558)  
Mason City Attorney  
601 Abbot Road, PO Box 2502  
East Lansing, MI 48826-2502

Introduced:  
Seconded:

**CITY OF MASON  
PLANNING COMMISSION RESOLUTION NO. 2016-\_\_**

**A Resolution Recommending that the City Council Adopt an Ordinance to Amend Section 94-173 – Supplemental Use Regulations – by Adding Subsection (k) Medical Marihuana – which Defines Medical Marihuana and Sets Forth the Requirements for Compliance with the Michigan Medical Marihuana Act Of 2008**

**March 15, 2016**

**WHEREAS**, the People of the state of Michigan have adopted, by initiative, the Michigan Medical Marihuana Act (the "Act"); and

**WHEREAS**, the Act authorizes primary caregivers to assist qualifying patients in obtaining medical marihuana by allowing the primary caregiver to grow, possess, and deliver limited amounts of marihuana to the patients and receive compensation for doing so; and

**WHEREAS**, the Act's provisions have resulted in primary caregivers combining to form what has come to be termed "dispensaries" in adjacent municipalities in which multiple registered primary caregivers operate from a single building to create situations in which amounts of marihuana greater than the act would otherwise allow for a single primary caregiver are being possessed and stored on single lots and properties; and

**WHEREAS**, the Act does not regulate or even necessarily allow for dispensaries and many significant aspects of the operation of a dispensary could affect the health, safety and welfare of the citizens of the city of Mason; and

**WHEREAS**, the Act does not regulate many significant aspects of the operation of a primary caregiver that could affect the health, safety and welfare of the citizens of the city of Mason; and

**WHEREAS**, the City of Mason, as part of the regulatory process, on March 17, 2014 adopted an ordinance requiring primary caregiver operations and dispensaries to be licensed; and

**WHEREAS**, on March 17, 2014, the Mason City Council adopted the first of five moratoriums on the issuance of licenses for primary caregiver operations and dispensaries, the most recent being Resolution No. 2016-03 for 90 days; and

**WHEREAS**, the City of Mason has not received any applications for licenses for primary caregiver operations or dispensaries; and

**WHEREAS**, the Mason Planning Commission has studied how to effectively regulate dispensaries and primary caregiver operations, including public input, to meet the intent of the Act while preserving the health, safety and welfare of its citizens; and

**WHEREAS**, the Planning Commission recommends that the best course of action to preserve the health, safety and welfare of the citizens of Mason is to permit and regulate primary caregivers and qualifying patients as a supplemental land use and set forth compliance standards consistent with the Michigan Medical Marihuana Act of 2008; and

**WHEREAS**, a public hearing on the ordinance was noticed and held at the Planning Commission's regular meeting of March 15, 2016, with testimony given and public comment solicited in accordance with Section 94-101 of the Mason Code.

**WHEREAS**, the Mason Planning Commission recommends repealing Article III of Chapter 10, Businesses, Sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 of the Code of the City of Mason.

**NOW THEREFORE BE IT RESOLVED**, that the City of Mason Planning Commission does hereby recommend that the City Council adopt the attached ordinance to Amend Section 94-173 – Supplemental Use Regulations – by Adding Subsection (k) Medical Marihuana – which Defines Medical Marihuana and Sets Forth the Requirements for Compliance with the Michigan Medical Marihuana Act Of 2008 and to repeal Article III of Chapter 10, Businesses, Sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 of the Code of the City of Mason.

Yes ( )

No ( )

**CLERK'S CERTIFICATION:** I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Planning Commission at its regular meeting held Tuesday, March 15, 2016, the original of which is part of the Planning Commission minutes.

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Deborah J. Cwierniewicz, Clerk  
City of Mason  
Ingham County, Michigan

Introduced: \_\_\_\_\_  
First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Effective: \_\_\_\_\_

## CITY OF MASON

### MEDICAL MARIHUANA REGULATION ORDINANCE

AN ORDINANCE TO AMEND SECTION 94-173 – SUPPLEMENTAL USE REGULATIONS – BY ADDING SUBSECTION (k) MEDICAL MARIHUANA – WHICH DEFINES MEDICAL MARIHUANA AND SETS FORTH THE REQUIREMENTS FOR COMPLIANCE WITH THE MICHIGAN MEDICAL MARIHUANA ACT OF 2008

#### THE CITY OF MASON ORDAINS:

Section 94-173 of Chapter 94 of the Mason City Code is hereby amended by adding subsection (k) to establish regulations for medical marihuana, which amended, section shall read as follows:

#### **Sec. 94-173. Supplemental use regulations.**

(a) *Home occupation.*

- (1) *Intent.* It is the intent of this section to set forth the requirements for establishing a home occupation as an accessory use of a single-family detached dwelling unit. Such home occupations could involve crafting, electronic or mail order sale or marketing of goods, the provision of services, or instruction in a craft or the fine arts which is conducted entirely within the dwelling unit by one or more persons, all of whom reside within the dwelling, and which is clearly incidental and secondary to the use of the dwelling as a residence.
- (2) *Location.* Home occupations shall be allowed only as an accessory use in those districts specifically allowing such use as provided in article IV of this chapter.
- (3) *Regulations and standards.* Home occupations shall meet the following regulations and standards:
  - a. There shall be no outdoor on-site storage of materials, inventory, equipment, or accessory items, or display of materials, inventory, goods, or supplies used in the conduct of the home occupation.
  - b. Only members of the immediate family who reside on the premises shall be employed in any part of the operation of the home occupation. All activities related to the home occupation shall be carried on entirely within the dwelling unit.

- c. Home occupations are permitted only in the principal structure/building. However, in no case shall more than 25 percent or 480 square feet, whichever is smaller, of the gross floor area of the principal building be utilized for a home occupation.
- d. A home occupation shall not generate an undue amount of traffic in excess of that prevailing or expected for the general area in which it is located. The home occupation shall not generate more than ten round trips per day, excluding trips generated by the occupants of the home. Adequate parking spaces shall be provided on the premises for persons patronizing the establishment.
- e. Home occupations shall maintain at least two on-site parking spaces dedicated for the permanent residents. All parking spaces shall be located in compliance with article IX of this chapter.
- f. The establishment of a home occupation shall not necessitate exterior modification or alter the fire rating, except as may be required by the building official, of any structure/building on the property.
- g. Home occupations shall not be open to the public except between the hours of 7 a.m. to 8 p.m., unless otherwise provided by special use permit.
- h. No food or beverages shall be sold to be consumed on the premises.
- i. No amusement games or devices shall be provided for or by customers on the premises.
- j. Uses prohibited as home occupations shall include the following:
  - 1. Convalescent and nursing homes.
  - 2. Day care centers or nursery schools, except as provided for in this chapter.
  - 3. Funeral homes.
  - 4. Kennels.
  - 5. Medical or dental clinics or hospitals, or animal hospitals.
  - 6. Refuse collection businesses.
  - 7. Repair of automobiles, motorcycles, boats, trailers, trucks or similar equipment or vehicles.
- k. The use of a detached garage or accessory building for home occupation is not permitted.
- l. All signs shall be in compliance with the provisions of section [58-127](#)(a)(1) in chapter 58.
- m. The home shall be in compliance with all other applicable laws and ordinances.

(b) *Solid waste disposal.*

- (1) *Intent.* Receptacles for the temporary storage of refuse or recyclable material are permitted in all districts as an accessory use to any use other than single-family residential uses, subject to the requirements of this section and division 2 of article VII of this chapter. The requirements of this section shall apply to any receptacle commonly referred to as a dumpster or any other container or group of containers having a total capacity of more than four 30-gallon cans.
- (2) *Location.* All receptacles shall be located in a rear or side yard, shall not encroach upon required parking areas, and shall be clearly accessible to servicing vehicles. Receptacles shall be located as far as practicable from any adjoining residential district or use but shall in no instance be located closer than 15 feet, or the minimum side yard setback of the particular zoning district in which it is located, whichever is greater, of any residential property line or district.
- (3) *Regulations and standards.*
  - a. *Screening.* Receptacles shall be screened from view from adjoining property and public streets and thoroughfares. Receptacles shall be screened on three sides with a permanent wall or fence of not less than the minimum height required in section [94-241](#)(h) or two feet above the highest wall of the enclosed receptacle, whichever is higher. The fourth side of the receptacle screening shall be equipped with an opaque lockable gate that is the same height as the other sides. The wall or fence should blend with the materials, color and style of the development.
  - b. The location and method of screening of all receptacles shall be shown on the site plans and shall be subject to the approval of the designated site plan approval body in accordance with division 1 of article VII of this chapter.
  - c. Receptacle locations shall be consolidated to minimize the number of collection sites and located so as to reasonably equalize the distance from the buildings they serve.
  - d. Receptacles shall be situated so as to not cause excessive nuisance or offense to occupants of the development they serve or of nearby buildings.
  - e. Concrete pads of appropriate size and construction shall be provided for all receptacles regulated by this section. Aprons shall be provided for loading of a single receptacle with a capacity of one and one-half cubic yards or more.
  - f. If a receptacle enclosure is situated directly adjacent to parking spaces or drives, it shall be protected at its base by concrete curb blocks.
  - g. The area inside and around the outside of a receptacle enclosure shall be maintained and litter free at all times. The enclosure shall also be maintained and repaired as necessary.

- (4) *Compost piles.* Composting shall be limited to manufactured commercial compost containers or equivalent containers and shall be regulated the same as other types of receptacles covered in this section.

(c) *Satellite dish antenna.*

- (1) *Intent.* The use of a satellite dish antenna shall be permitted in all districts as an accessory use. A satellite dish antenna is an apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit.

- (2) *Location.*

- a. No satellite dish antenna may be located in any front yard or side yard open space unless mounted to and located completely within four feet of a building wall.
- b. No satellite dish antenna may be located within any required parking area.
- c. No satellite dish antenna may be constructed such that any part of the antenna or supporting structure is closer to a lot line than the minimum setback for the district in which the antenna is located.
- d. Satellite dish antennas greater than 24 inches in diameter are prohibited on the roof or walls of any building in residentially zoned districts.
- e. Roof-mounted satellite dish antennas shall be mounted directly upon the roof of a building and shall not be mounted upon appurtenances such as chimneys, towers, poles, or spires.

- (3) *Regulations and standards.*

- a. The placement of any satellite dish antenna greater than 24 inches in diameter by any means in any zoning district is prohibited unless a site plan thereof is approved by the planning commission in accordance with the standards contained in division 1 of article VII of this chapter.
- b. Only one satellite dish antenna per residential dwelling unit shall be permitted.
- c. All satellite dish antennas and the construction and installation thereof shall conform to the building code.
- d. The surface of any satellite dish antenna shall be painted or treated so as not to reflect glare from sunlight or artificial lighting.
- e. No satellite dish antenna shall be:
  1. Linked physically to or with any structure which is not on the same lot.
  2. In excess of an overall diameter of 12 feet.

3. Located such that any portion of a roof-mounted antenna is more than ten feet above the highest point of a roof.
4. Located such that any portion of a roof-mounted antenna is less than four feet from the edge of the roof.
5. Supported by structural supports other than corrosion-resistant metal.
6. Wired to a receiver, except by wires located at least four inches beneath the ground in a rigid conduit or other wiring configuration approved by the building official.

(d) *Wireless telecommunications towers and antennas.* The purpose of this section is to establish the procedures and guidelines for the siting of wireless communications towers and antennas. In furtherance of this purpose, the city shall give due consideration to the master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas, subject to the following definitions, review requirements, and criteria. The objectives of this section are to:

- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
- (2) Direct the location of towers to appropriate nonresidential areas;
- (4) Minimize the total number of towers throughout the community;
- (5) Encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (6) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (7) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, positioning, landscape screening, and innovative camouflaging techniques;
- (8) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- (9) Consider the public health and safety of communication towers;
- (10) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- (11) Applicability. All towers or antennas in the city shall be subject to these regulations, except as provided in the following.
  - a. *Amateur radio station operators/receive-only antennas.* Other than the provisions of subsections [94-173\(d\)\(11\)e.](#) and f., this chapter shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned by or

operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

- b. *AM array.* For purposes of implementing this chapter, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(12) *General requirements.*

- a. *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- b. *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- c. *Aesthetics.* Towers and antennas shall meet the following requirements:
  - 1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- d. *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- e. *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- f. *Building codes and safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the state construction codes and the applicable standards for towers that are published by the Electronic Industries Association. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna as a public nuisance at the owner's expense.
  - g. *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.
  - h. *Signs.* No signs shall be allowed on an antenna or tower.
  - i. *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection [94-173\(d\)\(13\)b](#).
- (13) *Uses permitted by administrative review.* The zoning official may administratively approve a permit for any wireless communication facility for which all support equipment is screened from view and which complies with one of the following criteria:
- a. A roof mounted antenna not exceeding ten feet in height and located on a nonresidential structure.
  - b. Antennas and supporting equipment cabinets and structures which are architecturally integrated with a principal building or structure so as not to be recognized as antennas.
  - c. Up to three whip antennas with a maximum height of 20 feet.
  - d. Collocation of a wireless communication antenna on an existing monopole support structure, on a public water tower, athletic field light standard, electrical utility transmission tower or distribution pole, or on an existing tower or pole within the right-of-way or easement of an electrical utility company in any district of the city, provided:
    - 1. The antenna does not extend more than 30 feet above the highest point of the structure;
    - 2. The antenna complies with all applicable FCC and FAA regulations; and
    - 3. The antenna complies with all applicable building codes.
- (14) *Uses permitted by special use permit.* No wireless communications facilities other than those permitted by administrative review by subsection [94-173\(d\)\(12\)](#) of this

chapter shall be permitted except subject to the granting of a special use permit after review and approval by the planning commission pursuant to article VI of this chapter, subject to the general standards applicable to a special use permit as set forth at subsection [94-191](#)(f), the goals set forth at subsection [94-191](#)(a), and the following additional standards:

a. Location criteria.

1. Facilities shall be sited to minimize views to the extent reasonably possible from residential areas or the public right-of-way.
2. Support structures will be located in all geographic districts to minimize their view from neighboring properties and public rights-of-way.
3. Mounted wireless communication facilities are permitted in all districts except single-family and two-family districts, except that roof-mounted antennas are not permitted in any residential district.
4. Monopoles and similar support structures are permitted as a principle or accessory use only in the M-2 general manufacturing district, and those portions of the M-1 light manufacturing district, and those commercial districts lying south of a line created by Kipp Road extended and north and west of lines created by North Street and Buhl Street extended.
5. Monopoles not to exceed 150 feet in height are also permitted in the C-1 central business district by special use permit, provided the structure is located on publicly-owned property and is constructed and maintained for joint use by three or more users, at least one of which shall be a local or state governmental agency operating communication facilities for public safety services as defined under the Homeland Security Act.
6. Monopoles and similar support structures are prohibited in parks, school grounds or other areas heavily trafficked by children.
7. Lattice or guyed towers or antennas or similar structures are prohibited in all districts.

b. *Development and design standards.*

1. Setbacks.
  - i. Wireless communications facilities including all anchors or pads shall be sited so that the anchors and pads for the structure meet the minimum setback requirements of the zoning district where they are located and do not cross into another zoning district.
  - ii. Separation requirements for towers shall comply with the minimum standards shown in table 100-3 in chapter 100.
  - iii. Mounted wireless communication facilities shall meet the required setbacks for the structure upon which they are located and shall be situated to provide for maximum safety on the site.
2. Spacing requirements. Monopole tower structures shall be separated from all other towers by a minimum of 750 feet. For purposes of this subsection, the separation distance between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan, of the proposed tower. The minimum

tower separation distance shall be calculated and applied irrespective of city jurisdictional boundaries.

3. Height of the support structure must be the minimum necessary to support the required coverage; however, in no case shall the antenna or its support structure exceed:
  - i. For a single user, 90 feet.
  - ii. For two users, 120 feet.
  - iii. For three or more users, 150 feet.
4. Support structures shall be painted in unobtrusive colors, unless in accordance with any other statutory or regulatory requirements.
5. Where an equipment building accompanying the support structure is erected, it shall be designed to be compatible with the adjacent architecture.
6. Landscaping and visual impact requirements.
  - i. Landscaping shall be provided in sufficient quantity around the perimeter of the required security fencing, as well as adjacent to any buildings and anchors. Site access entrances shall also be landscaped. This information shall be presented on a landscape plan.
  - ii. When located on an otherwise undeveloped site, the existing natural vegetation of the property shall be maintained to the greatest extent possible. The applicants shall provide information on a landscape plan regarding existing vegetation which is proposed to be removed and methods for replacement. In no case shall an entire site be graded and/or cleared for installation of a wireless communication tower.
  - iii. Whether a freestanding or mounted wireless communications facility is proposed, the applicants shall demonstrate how the accessory building's design will limit adverse visual impacts to neighboring property owners.
  - iv. Lighting at the facility and accessory structures shall be designed so not to adversely affect adjacent property owners and shall be in compliance with FAA standards.

*c. Safety and security requirements.*

1. All new wireless communication facilities shall be designed within the applicable ANSI/EIA standards (RSA-22, Revision E), and so as not to be in conflict with existing airport locations and flight patterns.
2. The applicant shall, in conjunction with the application, submit a statement that is certified and sealed by a licensed architect or engineer indicating that the proposed wireless communication facility is in compliance with all Federal Communications Commission (FCC) regulations and all building code requirements.
3. All wireless communication facilities shall maintain comprehensive general liability insurance issued by a company authorized to do business in Michigan

with combined limits of not less than \$1,000,000, and the applicant shall supply the city with proof of same prior to construction.

4. Security fencing shall be installed completely around freestanding facilities, any accessory utility structures and guy anchors. Access shall be provided only by a locked gate. Security fencing shall not be required for mounted facilities.
5. All towers or similar facilities, antenna structures, accessory utility structures and guy anchors and pads shall be equipped with anti-climbing devices.

d. *Collocation.*

1. In order to maximize the efficiency of the provision of wireless communication services, while also minimizing the impact of such facilities on the community, collocation shall be encouraged. All applicants for wireless communication facilities shall be required to provide information regarding the feasibility of collocation at proposed or existing sites. Furthermore, all applicants shall be required to provide a notarized letter of intent to lease excess space on the proposed facility and commit itself to the following:
  - i. Respond to any requests for information from another potential shared use applicant;
  - ii. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically feasible; and
  - iii. Make no more than a reasonable charge for a shared use lease.
2. Should collocation be proposed at a wireless communication facility, accessory mechanical buildings shall either be situated directly adjacent to or abutting each other and separated by a firewall, shall be placed underground, or shall be designed in a manner which limits the number and size of the building(s) on the site. On-site constraints, such as existing topographical and other natural features, may be considered when reviewing a proposed collocation design. Accessory mechanical buildings shall be designed to be consistent in design, style and exterior appearance. Review and approval of accessory mechanical building(s) at a collocation-site shall be made by the planning commission.

e. *Abandonment.*

1. Wireless communication facilities which have been abandoned or are unused or disconnected from the network for a period of 12 months shall be immediately removed from the site at the cost of the facility applicant or successor.
2. Upon removal of a tower from a site, the foundation shall also be removed to a depth of at least six feet. Additionally, the fencing and accessory structure(s) shall be demolished and removed from the site at the cost of the facility applicant or successor.

f. *Application requirements.* Applications for a special use permit as set forth in this section shall contain the following in addition to the requirements or article VI of this chapter:

1. An explanation of the need of the applicant's clientele for this communications capacity.
2. Site and landscape plans drawn to scale.
3. The method of fencing and finished color and, if applicable, the method of camouflage and illumination.
4. A report including a description of the tower with technical support for the tower design.
5. Documentation establishing the structural integrity of the tower for the proposed uses.
6. The general capacity of the tower, and information necessary to assure that ANSI standards are met.
7. A statement of intent on whether excess space will be leased.
8. Proof of ownership or authorization to utilize the proposed site.
9. Copies of any easements necessary.
10. An analysis of the area containing existing topographical contours.
11. A presentation size map which shows an inventory of existing and proposed tower installations within the city and within one mile of the border thereof, including specific information about the location, height and design of each tower. The zoning official may share such information with other applicants applying for administrative approvals or seeking special use permits under this chapter or other organizations seeking to locate antennas within the city, provided, however, that the zoning official is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
12. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by the city or other persons located within a one-mile radius of the proposed tower site.
13. A written statement from a registered professional engineer that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structure located within a one-mile radius of the proposed tower site.

(e) *Swimming pools.* Pools used for swimming or bathing shall not be located in any front yard and shall conform to the applicable yard and setback requirements for an accessory

structure. In no instance shall a swimming pool be located closer than ten feet from any property line. Any fencing, barriers, and structures shall comply with the state construction code and county health department specifications. Any lights used for illumination of a swimming pool shall be arranged or shaded so as to reflect light away from adjoining premises.

(f) *Junk storage, inoperable vehicles, restorable vehicles.*

(1) *Junk storage.*

- a. No person shall store, place, abandon or permit to be stored, placed, abandoned, or allow to remain, in any district, a dismantled, partially dismantled, unlicensed, unrestorable, or inoperable motor vehicle, junk, rubbish, trash, old furniture, used lumber, unused or discarded machines or equipment, or litter upon any premises, except in an approved and licensed salvage or junk yard or in the case of motor vehicles unless confined in a wholly enclosed structure.
- b. No person shall store, place, abandon or permit to be stored, placed, abandoned, or allow to remain, in any district, wrecked or inoperable farm machinery, unless hidden from all vantage points from the general public.

(2) *Restorable vehicles.*

- a. A junk vehicle is considered an inoperable vehicle that is not a "restorable vehicle". A "restorable vehicle" is defined as a vehicle actively being restored in connection with a hobby.
- b. The restorable vehicle must be in active use as the object of the restoration effort.
- c. All junk vehicles or inoperable vehicles that do not qualify as restorable vehicles shall not be parked or stored in the open in any zoning district of the city. The only exception is vehicles parked in connection with a business legitimately using such vehicles, such as a body shop or wrecking yard, in zoning districts where such businesses are authorized. In such cases vehicle storage must meet the screening requirements in division 2 of article VII of this chapter.

(3) *Standards.*

- a. No inoperative, restorable vehicle shall be parked or stored in the front yard or within the required setback of the side yard of property in any zoning district.
- b. No more than one restorable vehicle may be stored in the open in inoperable condition on any residential lot. A cover or wrap is to be provided to conceal the vehicle parked in the open.
- c. All doors, hatches, and trunk lids shall be secured against entry by small children.
- d. Inoperable vehicles described in this section are not permitted in the RS-1, RS-2, and RS-3 districts unless such vehicles qualify as restorable vehicles.

e. Open storage of parts, tools, and materials is forbidden.

(g) *Accessory structures.* Any garage or other structure used for motor vehicle storage or as an accessory structure shall satisfy the following:

- (1) Authorized accessory structures may be erected as a part of the principal structure, may be connected to the principle structure by a roofed over porch, patio, breeze way, or similar structure, or may be completely detached from the principle structure. If connected to the principal structure, an accessory structure shall be made an integral part of it, and shall comply in all respects with the requirements applicable to the principal structure. An accessory structure not attached and not made a part of the principal structure shall not be nearer than ten feet from any other structure on the same lot and shall also comply with the front, rear and side yard requirements of this chapter.
- (2) In all residential zoning districts, the storage of commercial vehicles in accessory structures shall be limited as provided in subsection [94-292\(d\)](#) of this chapter.
- (3) Space in a garage accessory to a multiple-family unit or a motel shall not be rented out except to occupants of the principal dwelling.
- (4) The total lot coverage of all accessory structures shall not exceed 35 percent of the area of any rear yard.
- (5) Side yard. In all districts accessory structures shall not be erected nearer to a side lot line than the permitted setback distance for the district unless otherwise permitted by this chapter. In the RS-1, RS-2, RS-3, and R2F districts, an accessory structure may be erected not closer than two feet from the side lot lines if the following requirements are satisfied:
  - a. The accessory structure is not attached to, and is located completely behind, the associated principal structure.
  - b. The interior and/or exterior surfaces of the wall facing a side lot line are constructed of fire-resistant material as approved by the building official if any portion of that wall is closer than five feet from a side lot line.
- (6) Rear yard. In all districts accessory structures shall not be erected nearer to a rear lot line than the permitted setback distance for the district unless otherwise permitted by this chapter. In the RS-1, RS-2, RS-3 and R2F districts, an accessory structure may be erected nearer to a rear lot line than the permitted setback distance for the district provided the accessory structure is not attached to, and is located completely behind, the associated principal structure, and pursuant to the following:
  - a. Where there is a public alley abutting the rear of a lot for the full width of that lot, an accessory structure may be erected not closer than ten feet from a rear lot line.
  - b. Where there is not a public alley abutting the rear of a lot for the full width of that lot, an accessory structure may be erected not closer than five feet from a rear lot line.

- (7) Corner lot. Where the rear line of a corner lot coincides with the side line of an adjoining lot in a residential district, an accessory building shall not be closer than the side yard setback requirement of said adjoining lot.
  - (8) Accessory structures shall not include structures, fabrications, items, or enclosures originally designed for other purposes. The following are specifically prohibited from being used as accessory structures in the city.
    - a. Mobile home.
    - b. Travel trailers.
    - c. Former vehicles such as buses and ambulances.
    - d. Motor homes.
    - e. Semi-trailer.
    - f. Other similar structures, fabrications, items, or enclosures.
- (h) *Adult businesses.*
- (1) *Intent.* The intent of this section is to regulate the location of, but not to exclude, adult businesses in the city by preventing the concentration of such uses in close proximity to each other and to minimize the negative impacts of their operation by separating such uses from residential, office/commercial and other areas of public congregation. This regulation is done with the understanding that the city recognizes that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly if several of them are concentrated under circumstances having a deleterious effect upon adjacent residential, office and commercial areas. The city recognizes that the regulation of such uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of surrounding residential neighborhoods, nonresidential areas or other places of public congregation.
  - (2) *Definitions.* As used in this chapter, the following terms shall have the meanings set forth below:
    - a. *Adult bookstore* means an establishment which has, as a significant portion of its stock in trade, books, periodicals, magazines, newspapers, pamphlets, pictures, photographs, motion picture films and/or videotapes, or novelty items or paraphernalia which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein, or an establishment with a segment or section devoted to the sale or display of such material which exceeds 35 percent of the floor area of the establishment.

- b. *Adult business* means adult bookstores, adult movie theaters, adult personal service businesses, adult cabarets, adult novelty businesses, massage parlors and nude modeling studios, or any combination thereof, as defined in this section.
- c. *Adult business, significant portion* means a business where the stock in trade or services provided meets one or more of the following criteria:
  - 1. Thirty-five percent or more of the stock, materials, novelties or services provided are classified as adult materials and/or services as defined in subsection [94-173\(h\)\(2\)](#).
  - 2. Thirty-five percent or more of the usable floor area of the building in which the adult business is located, is used for the sale, display and/or provision of services classified as adult materials and/or services, as defined in subsection [94-173\(h\)\(2\)](#).
  - 3. Thirty-five percent of the gross revenues of the business are derived from the sale or payment of an admission fee for adult materials and/or services as defined in subsection [94-173\(h\)\(2\)](#).
  - 4. The advertising (signs, publications, television, radio, and other media) associated with the business depicts, describes or relates to specified sexual activities and/or specified anatomical areas.
- d. *Adult cabaret* means an establishment (which may or may not include the service of food or beverages) having as an activity the presentation or display of male or female impersonators, dancers, entertainers, waiters, waitresses or employees who display specified anatomical areas as defined herein.
- e. *Adult motion picture theater* means an establishment which offers for sale the viewing of motion picture films, videotapes, pictures or photographs, television, or other visual media, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, as defined herein, for the observation of patrons therein.
- f. *Adult novelties* means objects, items, and/or devices offered for sale which are designed for sexual stimulation or which stimulate human genitals.
- g. *Adult personal service business* means a business having as its principal activity a person, while nude or while displaying specified anatomical areas, as defined herein, providing personal services for another person. Such businesses include modeling studios, body painting studios, wrestling studios, personal dance rooms, and conversation parlors.
- h. *Massage* means offering for sale through the use of physical, mechanical or other devices, the manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating of the body of another.
- i. *Massage parlor* means an establishment wherein private massage is practiced, used or made available as a principal use of the premises.

- j. *Nude modeling studio* means a place which offers as its principal activity the providing of models to display specified anatomical areas, as defined herein, for artists and photographers for a fee.
- k. *Offered for sale* means offered in exchange for money, a membership fee or any other valuable consideration.
- l. *Sexual intercourse* includes genital coitus, fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any person's body.
- m. *Sodomy* means sexual intercourse with a member of the same sex or an animal.
- n. *Specified anatomical areas* means:
  - 1. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
  - 2. Less than a fully opaque covering of:
    - i. A female individual's breast below a point immediately above the top of the nipple and areola.
    - ii. Any individual's genitals.
    - iii. Any individual's anus.
- o. *Specified sexual activities* means:
  - 1. Acts of human masturbation, sexual intercourse or sodomy.
  - 2. Fondling or other erotic touching of specified anatomical areas.
  - 3. Human genitalia in a state of sexual stimulation or arousal.
- (3) *Location of uses.* Any existing building or land, or new building hereinafter erected, converted or structurally altered or used for an adult business, shall meet all of the following conditions:
  - a. An adult business shall only be permitted in the C-2 general commercial district with the approval of a special use permit.
  - b. No adult business, as defined herein, shall be permitted within a 600-foot radius of an existing adult business. Measurement of the 600-foot radius shall be made from the outermost boundaries of the lots or parcels upon which the existing and proposed adult uses are situated.
  - c. No adult business, as defined herein, shall be permitted within a 600 foot radius of any residentially used or zoned land as depicted on the official zoning map and defined in this chapter. Measurement of the 600-foot radius shall be made from the

outermost boundaries of the lots or parcels upon which the proposed adult use and the residential use are situated.

- d. No adult business, as defined herein, shall be permitted within a 1,000-foot radius of a school, library, park, playground, licensed group day care center, church, convent, monastery, synagogue or similar place of worship or public congregation. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lots or parcels upon which the proposed adult use and the place of worship or public congregation are situated.

(4) *Miscellaneous requirements.*

- a. No person shall reside in or permit any person to reside in the premises of an adult business.
- b. The provisions of this section regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social worker or family counselor who is licensed to practice his or her respective profession in the State of Michigan, or who is permitted to practice temporarily under the auspices of an associate or an establishment duly licensed in the state of Michigan, clergymen, certified members of the American Massage and Therapy Association and certified members of the International Myomassethics Federation who have a current massage therapist license.

(i) *Hotel, motel, transient lodging facilities.*

- (1) *Intent.* The following shall set forth the requirements for construction and site development of transient housing accommodations within the city.

(2) *Standards.*

- a. Minimum floor area for each guest unit shall contain not less than 250 square feet.
- b. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be at least 800 square feet of lot area for each guest.
- c. The maximum lot coverage of all buildings, including accessory building shall not exceed more than 25 percent of the area within the boundary lines of land developed at any one time.
- d. Minimum yard dimensions. All buildings shall observe a setback of not less than 75 feet from any road right-of-way, and not less than 40 feet from any side or rear property line.
- e. The maximum building height shall not exceed two stories or 35 feet.
- f. Site screening. The site may be enclosed by open structure wood or wire fences, shrubs and/or trees which, along any yard line, shall not exceed six feet in height.

No screening shall impair safe vertical or horizontal sight distance for any moving vehicles. Screening at least four feet high shall be erected to prevent headlight glare on adjacent residential or agricultural property. No screening shall be closer than 50 feet to any street line, except headlight screening shall not be closer than 30 feet.

- g. Lighting. All outdoor lighting shall be arranged so that it is deflected from adjacent properties, streets and thoroughfares, and shall not impair the safe movement of traffic.
- (3) *Accessory uses.* Accessory uses such as meeting rooms, taverns, bars, or similar uses are permitted provided such shall be conducted within the same building as the principal use. A caretaker or proprietor's residence shall be permitted as an accessory use.
- (4) *Motor vehicle access.*
- a. *Site plans.* All site plan proposals submitted for this use shall provide for the proper handling of traffic on the highway, frontage road, or street giving access to the district. No access by motor vehicles, other than stated herein, shall be permitted to a minor or residential street. All points of entrance or exit shall be no closer than 50 feet from the intersection of the right-of-way lines of two streets.
  - b. *Interstate or interchange site location.* Whenever a proposed use is located adjacent to or within one-half mile of an existing, or planned state or interstate limited access highway interchange, it shall be incumbent upon the applicant to show that the proposed site location shall not cause unsafe traffic congestion resulting at or in conjunction with said limited access interchange, and the applicant shall request and submit with the application a written recommendation from the Traffic Division of the Michigan Department of State Highways. In no case, shall private access drives be less than 200 feet from an interchange.
- (5) Signs shall be those identifying any of the permitted uses within the zoning district and shall be in accordance with the provisions of any applicable city chapter.
- (6) Off-street parking and loading requirements shall be in accordance with the provisions of article IX of this chapter except that required parking shall be furnished on the immediate premises.
- (7) The storage of refuse and space required for the accumulation and out loading of garbage, trash, scrap, waste, and containers therefore shall comply with the standards in section [94-173\(b\)](#).
- (j) *Outdoor food and drink service areas.* It is the intent of this section to set forth the requirements for establishing outdoor food and drink service areas at a pub, tavern, or restaurant.
- (1) General standards.

- a. Provide a drawing to scale showing the seating plan and the layout of the outdoor dining space to be used in relation to adjacent properties and other public and private fixtures and amenities.
  - b. Trash receptacles shall be provided in food and drink service areas where table service is not provided. Trash receptacles shall be emptied when full and maintained in a clean and sanitary condition at all times.
  - c. Seating may not be placed in a way that obstructs pedestrian circulation or interferes with the opening of doors of buildings or parked vehicles.
  - d. An opaque fence or wall six feet in height shall be erected along all property lines abutting residentially zoned or used property.
  - e. Lighting shall be deflected away from abutting residentially zoned or used property.
- (2) Establishments utilizing the public right-of-way shall do so only under a license granted by the city council which shall be revocable at the will of the council and shall include the following minimum standards in addition to the general standards of this section:
- a. Establishments shall agree to defend, indemnify, and hold the city and its elected and appointed officers, agents, and employees harmless from all liability for damages or personal injuries resulting from any occurrence on the licensed property as a result of the establishment's use or occupancy of the public right-of-way and shall provide public liability insurance naming the city as an additional named insured in a form and with limits acceptable to the city.
  - b. Establishments must maintain a minimum of four feet of unobstructed sidewalk within the public right-of-way.

(k) Medical Marihuana

(1) Findings.

- a. Voters in the state of Michigan approved a referendum authorizing the medical use of marihuana in certain limited situations.
- b. The intent of the referendum was to enable certain specified persons who comply with the various registration provisions of the law to legally possess and use marihuana for medical purposes without fear of criminal prosecution under limited, specific circumstances.
- c. Despite the details of the state legislation and the activities legally allowed under the Medical Marihuana Act, marihuana is still a controlled substance under Michigan law and the legalization of possession, cultivation/growth, use and distribution in specific circumstances has a potential for abuse that should be closely monitored to avoid activities that can cause a public nuisance and

other than conditions detrimental to the health, safety and welfare of the residents of the city of Mason.

(2) Intent.

It is the intent of this Ordinance to regulate the use of medical marihuana to protect the health, safety and welfare of the residents of the city of Mason. It is not the intent of this Ordinance to violate any rights protected by the Constitution of either the State of Michigan or the United States of America. It is the intent of the City of Mason that nothing in this Ordinance be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow the use, possession or control of marihuana for non-medical purposes or to allow activity relating to cultivating, storing, possessing, distributing or consuming marihuana that is otherwise illegal under federal or state law. This Ordinance is not intended to condone, authorize or provide immunity from prosecution for violations of federal or state law, but rather only to describe the type of conduct which constitutes a violation of this Ordinance.

(3) Definitions.

Any term used in this Ordinance which is defined in the Michigan Medical Marihuana Act (MCL § 333.26421 et seq) shall have the meaning given it by the Michigan Medical Marihuana Act.

As used in this Section 4(f), the term “assist” or “assisting” shall mean to grow medical marihuana for or distribute medical marihuana to, or receive compensation for costs associated with growing or distributing medical marihuana for or to other persons.

(4) Prohibited Conduct Described.

a. General Compensation Restrictions: Patient-to-Patient Compensation Restrictions

No person shall receive or share in compensation for the costs associated with assisting a qualifying patient with the medical use of marihuana to a qualifying patient except for a registered caregiver who is distributing marihuana to a qualifying patient that the registered caregiver is connected to through the Michigan Department of Licensing and Regulatory Affairs’ registration process and the transaction is otherwise in compliance with the Michigan Medical Marihuana Act. No qualifying patient shall receive compensation for costs associated with assisting other qualifying patients with the medical use of marihuana unless the qualifying patient providing the assistance is a registered primary caregiver connected to the qualifying patient receiving the marihuana through the Michigan Department of Licensing and Regulatory Affairs’ registration process and the transaction is otherwise in accordance with the Michigan Medical Marihuana Act.

b. Possession and Access Restriction Limits

No primary caregiver or qualifying patient or other person shall possess marihuana or marihuana plants in excess of the amount he or she is allowed to possess under MCL § 333.26424(a) or (b). The possession limits for a registered caregiver under the Michigan Medical Marihuana Act are as follows:

1. 2.5 ounces of usable marihuana for each qualifying patient that is connected to the caregiver.
2. 12 marihuana plants kept in an enclosed, locked facility, for each registered qualifying patient who has specified that the qualified caregiver will be allowed to cultivate marihuana for the qualifying patient.
3. Any incidental amount of seeds, stalks, and unusable roots.

The possession limits for a qualifying patient under the Michigan Medical Marihuana Act are as follows:

1. 2.5 ounces of usable marihuana.
2. 12 marihuana plants kept in an enclosed, locked facility provided that the qualifying patient has not specified that a primary caregiver will be allowed to cultivate marihuana for the qualifying patient.
3. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.

Medical marihuana growing areas where primary caregivers or qualified patients share space with other caregivers or other qualifying patients in the same room are prohibited under this Ordinance. Primary caregivers shall not allow access to their medical marihuana growing room(s) to any other primary caregivers, qualifying patients or non-caregivers or non-patients, nor to any employees or contractors or any other person other than law enforcement officials present for ordinance or law enforcement duties.

c. Entity Restrictions

The following entities are expressly prohibited from receiving compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana: corporations, limited liability companies, and partnerships.

d. Common Facilities Restrictions

It shall be a violation of this ordinance for any person to participate as a registered primary caregiver in a jointly operated facility where primary caregivers jointly share building space which is used in common to assist more than 5 qualifying patients with the medical use of marihuana. Use "in common," as that phrase is used in this subparagraph, shall include a shared or common reception area, a shared or common customer service area, and a shared or common area for the growing of medical marihuana.

e. Restrictions Against Delegation of Caregiver Functions (Restriction on Use of Employees)

It shall be a violation of this Ordinance for a primary caregiver to delegate to an employee or other person not independently authorized by the Michigan Medical Marihuana Act the authorization or permission to provide assistance with the medical use of marihuana to a qualifying patient.

f. Primary Caregiver Distribution/Growing Restrictions

1. It shall be a violation of this Ordinance for a primary caregiver to grow medical marihuana for or distribute medical marihuana to any person who is not a qualifying patient to whom the primary caregiver is connect through the Michigan Department of Licensing and Regulatory Affairs' registration process.
2. It shall be a violation of this Ordinance for any person other than a registered primary caregiver to receive compensation from any person or entity for the costs associated with assisting a registered qualifying patient in the medical use of marihuana.
3. It shall be a violation of this Ordinance for a primary caregiver to assist another person with his or her medical use of marihuana unless the primary caregiver is approved as a registered primary caregiver by the Michigan Department of Licensing and Regulatory Affairs.
4. It shall be a violation of this Ordinance for a primary caregiver to assist more than five (5) qualifying patients with their medical use of marihuana.
5. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the structure which contains electrical wiring, lighting, ventilation, and watering devises that support the cultivation, growing or harvesting of marihuana.

(5) Additional Operational Restrictions.

- a. The sale, distribution, cultivation and possession of marihuana or marihuana plants are prohibited to the extent it is in violation of the Michigan Medical Marihuana Act.

(6) Severability.

If any portion of this Ordinance or the application thereof to any person is adjudged to be invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other portion of this Ordinance, or the application to any other portion of this Ordinance to any such person or other persons.

**THE CITY OF MASON FURTHER ORDAINS:**

Article III of Chapter 10, Businesses, Sections 10-70, 10-71, 10-72, 10-73, 10-74 and 10-75 of the Code of the City of Mason is hereby repealed in its entirety from the Code of the City of Mason.

**Effective Date.** Notice of this ordinance shall be published in a newspaper of general circulation in the city within 15 days after its adoption and mailed in accordance with the requirements of MCL 125.3401. This ordinance shall take effect upon the expiration of 20 days after its adoption.

The foregoing Ordinance was moved for adoption by Council Member \_\_\_\_\_ and supported by Council Member \_\_\_\_\_, with a vote thereon being: YES ( ) NO ( ), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the \_\_\_\_ day of \_\_\_\_\_, 2016. Ordinance No. \_\_\_\_ declared adopted this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mike Waltz, Mayor

\_\_\_\_\_  
Deborah J. Cwierniewicz, City Clerk

\_\_\_\_\_  
Thomas M. Hitch (P25558)  
Mason City Attorney  
601 Abbot Road, PO Box 2502  
East Lansing, MI 48826-2502

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## MEMORANDUM

TO: Planning Commission

FROM: David E. Haywood, Zoning & Development Director 

RE: Ordinance – Mobile Food Vendors/Food Trucks

DATE: March 10, 2016

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### **Purpose**

This effort originally started in the spring of 2015 with City Council directing staff to develop an ordinance to regulate food trucks. After much internal discussion, it appears that assistance from the Planning Commission would be the best method for developing a draft ordinance. With the “food truck season” quickly approaching, it is obvious that an ordinance needs to be developed as quickly as possible. Therefore, it is important to know that the City Council has an expectation to receive a recommendation on an ordinance by April 12, 2016. I understand that this is a quick turn-around, but necessary given the time of season.

### **Ordinance Examples**

Staff has gathered multiple sample ordinances to review. Attached are example ordinances from the following Michigan municipalities:

- City of East Lansing
- City of Kalamazoo
- City of Mount Pleasant
- City of St. Joseph
- City of Traverse City

### **Other Resources/References**

Staff has collected a variety of resources that might aid in the discussion. Each of the publications below is included in your packet.

- “Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending” – Clearzoning April 2014
- “Food Trucks, from American Planning Association” – Zoning Practice, September 2013
- “Regulating Food Trucks” – American Planning Association Planning Advisory Service, November 2015

### **Public Input Summary**

Staff has received initial feedback on the prospect of permitting mobile food vendors in the City from the Downtown Development Authority, Historic District Commission, Planning Commission, and Traffic Commission. Many areas of concern were identified as a result of the discussions. A public forum was also held in February to get initial thoughts and concerns from the public in general. Summaries of both are attached.

### **Analysis & Observations**

Staff has conducted a cursory review of the sample ordinances listed above. We have found a trend among many of the ordinances. There is a basic structure that appears to be fairly consistent throughout most ordinances observed, which include the following sections; scope, definitions, license required, application, fees, regulations, complaints/enforcement, appeals, sunset date.

The “regulations” section is where we find the most differences among all the ordinances. The ordinance examples that staff has examined to date cover a variety of regulatory issues, which include, but are not limited to the following:

- Location – public parking, private property, parks, festivals, and prohibited locations
- Density - separation from other food trucks
- Cleanliness
- Noise
- Signs
- Hours of operation
- Proximity to brick and mortar restaurants
- Insurance
- Use of utilities

Staff would suggest that the Planning Commission focus their discussion around what we would consider the most important considerations being; location, density, hours of operation, and proximity to restaurants.

### **Draft Ordinance**

Based on of the considerations listed above, staff has taken the liberty of drafting an ordinance that hits on many of the concerns identified to date. The draft ordinance is formatted to fit the City’s ordinance structure and serves as a beginning point for our conversation.

### **Recommendation**

**Staff recommends the Planning Commission set a date for a workshop and/or additional public forum to develop a final draft ordinance and recommendation to City Council by April 12, 2016.**

Introduced: \_\_\_\_\_  
First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Effective: \_\_\_\_\_

**CITY OF MASON**

**MOBILE FOOD VENDING REGULATION ORDINANCE  
[DRAFT]**

AN ORDINANCE TO AMEND CHAPTER 10 – BUSINESSES  
– BY ADDING ARTICLE IV, MOBILE FOOD VENDORS –  
WHICH DEFINES MOBILE FOOD VENDORS AND SETS  
FORTH REQUIREMENTS FOR COMPLIANCE

**THE CITY OF MASON ORDAINS:**

Chapter 10 of the Mason City Code is hereby amended by adding Article IV to establish regulations for mobile food vendors, which amended, article shall read as follows:

**ARTICLE III. Mobile Food Vehicle Vending**

**Section 10-70. Definitions**

*Mobile food vending* means vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a Food Service Establishment under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with food, such as a tee shirt that bears the name of the organization engaged in Mobile Food Vending.

*Mobile food vending unit* means any motorized or non-motorized, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served or offered for sale.

*Vendor* means any individual engaged in the business of Mobile Food Vending; if more than one individual is operating a single stand, sort of other means of conveyance, then Vendor shall mean all individuals operating such single stand, cart or other means of conveyance.

**Section 10-71. Scope**

The provisions of this article apply to mobile food vehicles engaged in the business of cooking, preparing and distributing food or beverage with or without charge upon or in public and private restricted spaces. This ordinance does not apply to vehicles which dispense food and that move from place to place and are stationary in the same location for no more than 15 minutes at a time, such as ice cream trucks, or

food vending pushcarts and stands located on sidewalks.

### **Section 10-72. License Required**

(a) It shall be unlawful for any person, including any religious, charitable or nonprofit organization, to operate within the City a mobile food vehicle without having obtained from the City Clerk a license for that purpose.

(b) A person desiring to operate a mobile food vehicle shall make written application for such license to the City Clerk. The application for a license shall be on forms provided by the City Clerk and shall include the following:

- (1) Name, signature, phone number, email contact and business address of the applicant.
- (2) A description of the preparation methods and food product offered for sale including the intended menu.
- (3) Information on the mobile food vehicle to include year, make and model of the vehicle and dimensions, which shall not exceed 36 feet in length or 9 feet in width.
- (4) Information setting forth the proposed hours of operation, area of operations, plans for power access, water supply and wastewater disposal.
- (5) Copies of all necessary license or permits issued by the Ingham County Health Department.
- (6) Insurance coverage.

(c) Proof of General Comprehensive Liability policy with limits of no less than \$2 million Combined Single Limit coverage issued by an insurer licensed to do business in this state and which names the City as an additional injured.

(d) Proof of Public Liability and Property Damage motor vehicle policy with limits of no less than \$1 million issued by an insurer licensed to do business in this State.

(e) All vendors receiving a license under this ordinance shall pay the annual fee as set from time to time by the City Council.

(f) The City Clerk shall issue no more than 10 active mobile food vehicle licenses for any calendar year. Each mobile food vehicle license shall expire on December 31 of each year.

(g) A license issued under this ordinance shall not be transferable from person to person.

(h) A license is valid for one vehicle only and shall not be transferred between vehicles.

### **Section 10-73. Fees**

An application for a permit under this Article shall be accompanied by a fee in the amount established by resolution of the City Council. There shall be no proration of fees. Fees are non-refundable once a permit has been issued by the City Clerk. If operating on non-City property, no fee shall be charged to a business which is on the city's tax rolls whose normal business includes the sale of food and/or beverages. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this Article.

### **Section 10-74. Regulations**

(a) No operator of a mobile food vehicle shall park, stand or move a vehicle and conduct business within areas of the city where the license holder has not been authorized to operate. The City Council shall by resolution identify those streets and public areas where parking by mobile food vehicles is permitted.

(b) The customer service area for mobile food vehicles shall be on the side of the truck that faces a curb lawn or sidewalk when parked. No food service shall be provided on the driving lane side of the truck. No food shall be prepared, sold, or displayed outside of mobile food vehicles.

(c) No mobile food vehicle vendor shall provide or allow any dining area within 10 feet of the mobile food vehicle, including but not limited to tables and chairs, booths, stools, benches or stand up counters.

(d) All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed.

(e) No mobile food vehicle shall make or cause to be made any unreasonable or excessive noise. The operation of all mobile food vehicles shall meet the city noise ordinance, including generators. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.

(f) Signage is only allowed when placed on mobile food vehicles. No separate free-standing signs are permitted.

(g) No flashing or blinking lights, or strobe lights are allowed on mobile food vehicles or related signage when the vehicle is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque, hood shields to direct the illumination downward.

(h) Mobile food vehicles when parked on public streets shall be parked in conformance with all applicable parking restrictions, and shall not hinder the lawful parking or operation of other vehicles.

(i) A mobile food vehicle shall not be parked on the street overnight or left unattended and unsecured at any time food is in the vehicle. Any mobile food vehicle found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

(j) A mobile food vendor may conduct business between the hours of 9am and 12am. This restriction shall not apply to Special Event Vendors operating under a separate event permit issued by City Council.

(k) A vendor shall not operate a mobile food vehicle within 500 feet of any fair, festival, special event or civic event that is licensed or sanctioned by the City unless the vendor has obtained permission from the event sponsor.

(l) The issuance of a mobile food vehicle license does not grant or entitle the vendor to the exclusive use of any service route or parking space to the license holder.

(m) A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner. A private property owner shall not permit parking by a mobile food vehicle until a concessionaires license has been obtained from the City Clerk, pursuant to Article II of Chapter 10, to allow for such use.

(n) No mobile food vehicle shall use external signage, bollards, seating or other equipment not contained within the vehicle. When extended, awnings for mobile food vehicles shall have a minimum clearance of 7 feet between the ground level and the lowest point of the awning or support structure.

(o) Any power required for the mobile food vehicle located on a public way shall be self-contained and a mobile food vehicle shall not use utilities drawn from the public right-of-way. Mobile food vehicles on private property may use electrical power from the property being occupied or an adjacent property, but only when the property owner provides written consent to do so. All power sources must be self-contained. No power cable or equipment shall be extended at or across any City street, alley or sidewalk.

(p) Mobile food vehicles shall not be parked within 150 feet of an existing, brick and mortar restaurant during the hours when such restaurant is open to the public for business, unless written permission is obtained from said restaurant.

(q) Mobile food vendors may not operate or sell within a residentially zoned area.

### **Section 10-75. Enforcement**

(a) Any license holder operating a mobile food vehicle in violation of any provision of this ordinance or any rules and regulations promulgated by the City shall be subject to a civil fine of \$250 per day. Each day of violation shall constitute a separate and distinct offense.

(b) Once a license has been issued it may be revoked, suspended or not renewed by the City Clerk for failure to comply with the provisions of this ordinance and any rules or regulations promulgated by the City.

**Section 10-76. Severability**

If any portion of this Ordinance or the application thereof to any person is adjudged to be invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other portion of this Ordinance, or the application to any other portion of this Ordinance to any such person or other persons.

**Effective Date.** This ordinance shall take effect upon the expiration of 20 days after its adoption.

The foregoing Ordinance was moved for adoption by Council Member \_\_\_\_\_ and supported by Council Member \_\_\_\_\_, with a vote thereon being: YES ( ) NO ( ), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the \_\_\_\_ day of \_\_\_\_\_, 2016. Ordinance No. \_\_\_\_ declared adopted this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mike Waltz, Mayor

\_\_\_\_\_  
Deborah J. Cwierniewicz, City Clerk

\_\_\_\_\_  
Thomas M. Hitch (P25558)  
Mason City Attorney  
601 Abbot Road, PO Box 2502  
East Lansing, MI 48826-2502

# CITY OF EAST LANSING

## POLICY RESOLUTION NO. 2012-2

### GUIDELINES FOR GRANTING CONCESSIONAIRE LICENSES IN THE CITY OF EAST LANSING

WHEREAS, The City Manager may grant a Concessionaire License to any person, firm, partnership, corporation or other business entity to sell goods, services or merchandise from a temporary or portable structure or fixture at a specific location on any public place, street, or right-of-way within the downtown business district pursuant to Section 8-133(7) of the City Code.

WHEREAS, In addition to the terms and conditions described in Chapter 8, Sections 8-131 through 8-133 and Sections 8-151 through 8-154 of the City Code, the City Council is to approve guidelines for the City Manager to consider in reviewing applications for Concessionaire Licenses; and

WHEREAS, The Downtown Development Authority has voted in support of the following guidelines; and

WHEREAS, The Council and the Downtown Development Authority wish to have the following areas covered by this policy resolution:

- |                               |                               |
|-------------------------------|-------------------------------|
| 1. Application/Review/Appeals | 6. Appearance and Noise       |
| 2. Permitted Uses             | 7. Sanitation and Cleanliness |
| 3. License Fees               | 8. Insurance                  |
| 4. Locations                  | 9. Storage                    |
| 5. Hours of Operation         | 10. Review of Policy          |

NOW THEREFORE, the City Manager shall consider the following Guidelines in reviewing an application for a Concessionaire's License:

#### **1. Application/Review/Appeals**

An Advisory Committee selected by the DDA will review concessionaire applications. This committee will consist of membership from the DDA and Downtown Management Board, one of whom shall be a merchant engaged in the food service business.

- a. Applications are submitted to the City Clerk.
- b. Review of applications will be by an Advisory Committee appointed by the DDA.
- c. Advisory Committee will review applications for conformance with Guidelines and recommend approval or denial to City Manager.

- d. The City Manager may deny and/or suspend or revoke a license pursuant to Section 8-67 if licensee does not meet the minimum requirements of these guidelines. Failure to meet the minimum requirements of or comply with these guidelines is cause for denial, suspension or revocation of a license.
- e. Appeals of City Manager's action to deny an initial license and of the application of specific guidelines to an applicant may be made to the City Council. Appeals of the City Manager's action to suspend or revoke a license or deny a renewal license application shall be made pursuant to Sections 8-67.

**2. Permitted Businesses/Uses and Application Review Criteria**

The permitted uses are for food vending and non-food vending only if the non-food items are not already offered by a nearby downtown business

Application Review Criteria:

- a. In addition to the requirements of Section 8-152, application shall include all plans and merchandise proposed to be sold.
- b. Advisory Committee shall coordinate location of use.
- c. Proposed business shall meet the goal of providing a use that adds to the vitality and aesthetic appeal of the downtown.
- d. Proposed business shall compliment the area.
- e. Applicants need to meet all applicable local and state laws and comply with requirements of the Ingham County Health Department.

**3. License/Rental Fees**

- a. \$200 initial application fee and \$100 annual renewal application fee. Application fees will be applied to the annual rental fee upon approval.
- b. Initial fees will be as follows: \$1,200 annual rental fee for all approved concessionaire carts and \$1,800 annual rental fee for all approved food trucks. Renewal fees will be \$1,100 annually for concessionaire carts and \$1,700 annually for food trucks.
- c. Rental fees will offset parking revenue lost and will otherwise go to the DDA to be expended by the DDA for maintenance & public improvements in the DDA District pursuant to the annual DDA budget approved by City Council.

#### **4. Locations**

- a. No locations will be allowed along Grand River Avenue. Concessionaire Carts shall be permitted only at those three locations shown and Concessionaire Trucks shall be permitted only at the one parking location as shown on the attached DDA District Boundary map which is incorporated herein.
- b. Concessionaire Cart Location Criteria:
  - a) Locations will be reviewed with respect to non-conflicting uses.
  - b) One cart or kiosk per location unless recommended otherwise by the Advisory Committee.
  - c) Locations will only be allowed where there is a minimum of six feet of unobstructed public walkway.
  - d) Location assignments will be based on seniority and if a concessionaire does not renew before their one-year approval expires then they may lose their location.
- c. Specific locations (up to 40 sq. ft. per cart and 1 parking space per truck) will be recommended to the City Manager or Council by the DDA following a recommendation from the Advisory Committee.
- d. Goods are not allowed to be sold to persons in vehicles.
- e. Businesses within 500 feet of the proposed site will be notified of the application for a Concessionaire's License and given the opportunity to comment. The City Manager will take these and other comments into consideration during his/her review.

#### **5. Hours of Operation**

- a. Normal maximum hours of operation, Sunday through Saturday, 7:00 a.m. to 12:00 midnight, (Licensee must stop serving at 12:00 a.m.).
- b. No hours allowed during any City sponsored festivals (unless approved through Festival procedures). Concessionaires may operate on football game days.
- c. Licensees will be monitored for conformance by P.A.C.E.
- d. Concessionaires must remove cart daily at or before 12:00 a.m.
- e. Food trucks shall have a set monthly schedule approved by the City Manager upon recommendation of the advisory committee so that the parking space may be made available for visitors when not in use by the food truck.

**6. Appearance and Noise**

- a. Licensee shall submit drawings and photographs of cart or truck and goods and complete list of goods to be sold.
- b. Carts and trucks shall be attractive and be kept clean.
- c. Cart shall be movable and have at least two wheels. Tables allowed for non-food items only with approval of the Review Committee.
- d. Cart and truck designs shall be approved by Advisory Committee.
- e. Vendors shall not use loud generators or other noise producing equipment per the City's Noise Ordinance.

**7. Sanitation and Cleanliness**

Licensee shall provide own receptacle and keep/leave location and immediate surrounding area clean and free from trash and litter. (Note: City/DDA may add additional receptacles, if required.)

**8. Indemnity and Insurance**

Licensee shall, to the fullest extent permitted by law, defend, indemnify, and hold the City harmless against any claim that may arise from its use of the public right of way. The Licensee shall obtain and maintain during the term of the license a comprehensive general liability insurance policy written on an occurrence basis having policy limits of no less than \$300,000 per occurrence. A certificate of insurance naming the City as an additional insured shall be filed by licensee with the approved application. The certificate shall provide that the City will receive 30 days prior written notice of cancellation or non-renewal.

**9. Storage**

During off hours, licensee shall be responsible for removing cart or truck and any other equipment to be stored off site in a private location.

**10. Review of Policy**

That the concessionaire guidelines be evaluated by the DDA with a report and recommendation to the City Council every year.

Policy Resolution 2012-2 replaces Policy Resolution 2011-3.

---

Diane Goddeeris, Mayor

Moved by Councilmember: Triplett

Seconded by Councilmember: Power

Adopted: YEAS: 4

NAYS: 0

ABSENT: 1

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and complete copy of a Policy Resolution adopted by the East Lansing City Council at its regular meeting held on July 10, 2012, the original of which is part of the Council's minutes.

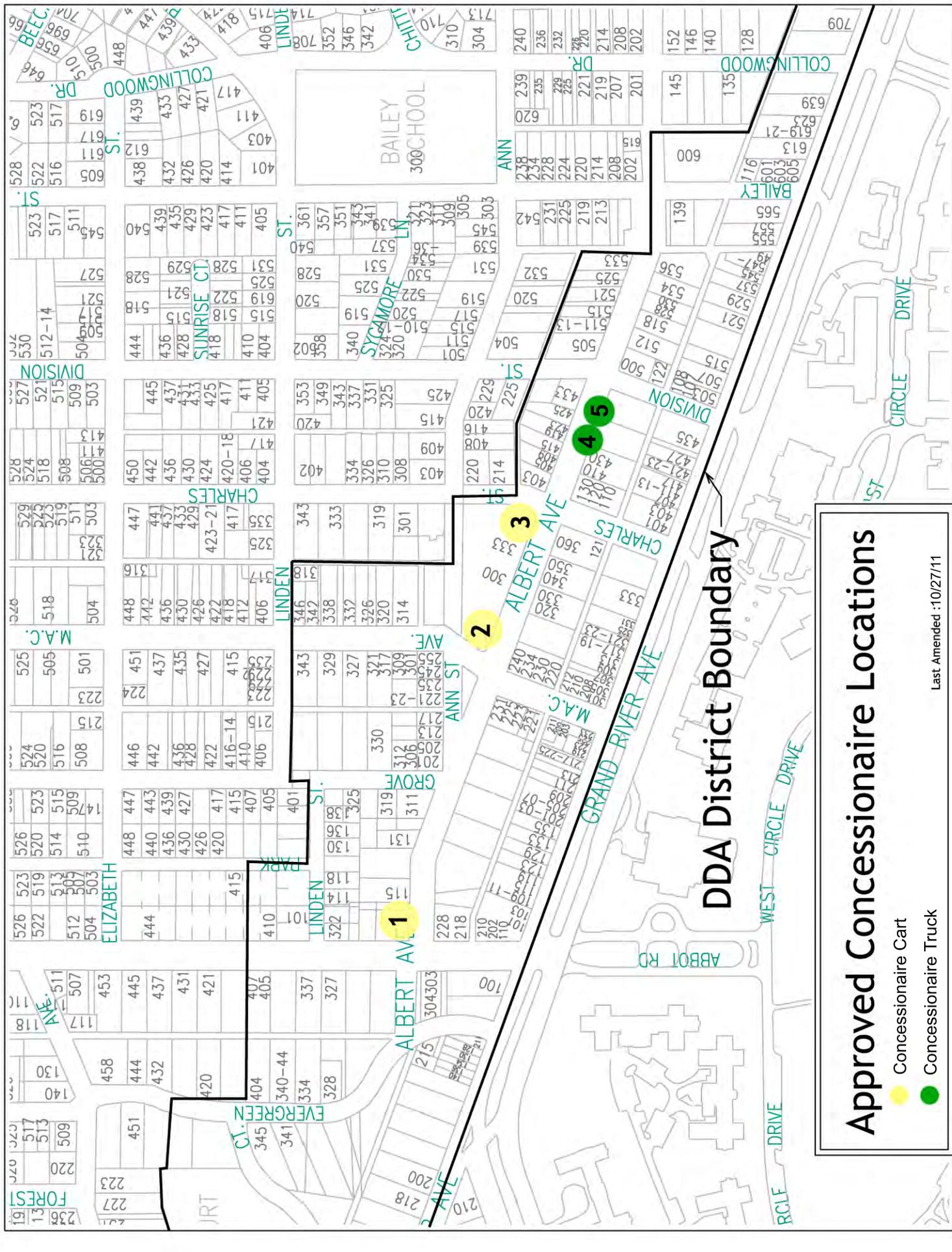
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Marie E. McKenna, City Clerk  
City of East Lansing  
Ingham and Clinton Counties, Michigan

Approved as to form:

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Thomas M. Yeadon (P38237)  
East Lansing City Attorney  
601 Abbot Road  
East Lansing, MI 48823



## Approved Concessionaire Locations

- Concessionaire Cart
- Concessionaire Truck

**CITY OF KALAMAZOO, MICHIGAN**

**ORDINANCE NO. 1901**

**AN ORDINANCE TO PERMIT AND REGULATE MOBILE FOOD  
VEHICLE VENDORS**

**THE CITY OF KALAMAZOO ORDAINS:**

**Section 1.** Sections 25-63 to 25-68 of the Kalamazoo City Code are created to read as follows:

**"ARTICLE IV**

**Mobile Food Vehicle Vendors**

**Section 25-63. Short Title**

This ordinance may be referred to as the city of Kalamazoo Mobile Food Vehicle Ordinance.

**Section 25-64. Definitions**

**MOBILE FOOD VEHICLE** -- A motorized vehicle which may upon issuance of a license by the City Clerk and conformance with the regulations established by this ordinance may temporarily park upon a public street and engage in the service, sale or distribution of ready to eat food for individual portion service to the general public directly from the vehicle.

**MOBILE FOOD VEHICLE VENDOR** -- The registered owner of a mobile food vehicle or the owner's agent or employee; and referred to in this ordinance as "vendor".

**Section 25-65. Scope**

The provisions of this ordinance apply to mobile food vehicles engaged in the business of cooking, preparing and distributing food or beverage with or without charge upon or in public and private restricted spaces. This ordinance does not apply to vehicles which dispense food and that move from place to place and are stationary in the same location for no more than 15 minutes at a time, such as ice cream trucks, or food vending pushcarts and stands located on sidewalks.

**Section 25-66. License Required**

A. It shall be unlawful for any person, including any religious, charitable or nonprofit organization, to operate within the City a mobile food vehicle without having obtained from the City Clerk a license for that purpose.

B. A person desiring to operate a mobile food vehicle shall make written application for such license to the City Clerk. The application for a license shall be on forms provided by the City Clerk and shall include the following:

(1) Name, signature, phone number, email contact and business address of the applicant.

(2) A description of the preparation methods and food product offered for sale including the intended menu.

(3) Information on the mobile food vehicle to include year, make and model of the vehicle and dimensions, which shall not exceed 36 feet in length or 9 feet in width.

(4) Information setting forth the proposed hours of operation, area of operations, plans for power access, water supply and wastewater disposal.

(5) Copies of all necessary license or permits issued by the Kalamazoo County Health Department.

(6) Insurance coverage:

(a) Proof of General Comprehensive Liability policy with limits of no less than \$2 million Combined Single Limit coverage issued by an insurer licensed to do business in this state and which names the City as an additional insured.

(b) Proof of Public Liability and Property Damage motor vehicle policy with limits of no less than \$1 million issued by an insurer licensed to do business in this State.

C. All vendors receiving a license under this ordinance shall pay the annual fee as set from time to time by the City Commission.

D. The City Clerk shall issue no more than 10 active mobile food vehicle licenses for any calendar year. Each mobile food vehicle license shall expire on December 31 of each year.

E. A license issued under this ordinance shall not be transferable from person to person.

F. A license is valid for one vehicle only and shall not be transferred between vehicles.

## **Section 25-67. Regulations**

A. No operator of a mobile food vehicle shall park, stand or move a vehicle and conduct business within areas of the city where the license holder has not been authorized to operate. The City Commission shall by resolution identify those streets and public areas where parking by mobile food vehicles is permitted.

B. The customer service area for mobile food vehicles shall be on the side of the truck that faces a curb lawn or sidewalk when parked. No food service shall be provided on the driving lane side of the truck. No food shall be prepared, sold, or displayed outside of mobile food vehicles.

C. No mobile food vehicle vendor shall provide or allow any dining area within 10 feet of the mobile food vehicle, including but not limited to tables and chairs, booths, stools, benches or stand up counters.

D. Customers shall be provided with single service articles such as plastic utensils and paper plates and a waste container for their disposal. All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed.

E. No mobile food vehicle shall make or cause to be made any unreasonable or excessive noise. The operation of all mobile food vehicles shall meet the city noise ordinance, including generators. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.

F. Signage is only allowed when placed on mobile food vehicles. No separate free-standing signs are permitted.

G. No flashing or blinking lights, or strobe lights are allowed on mobile food vehicles or related signage when the vehicle is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque, hood shields to direct the illumination downward.

H. Mobile food vehicles when parked on public streets shall be parked in conformance with all applicable parking restrictions, and shall not hinder the lawful parking or operation of other vehicles.

I. A mobile food vehicle shall not be parked on the street overnight or left unattended and unsecured at any time food is in the vehicle. Any mobile food vehicle found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

J. A vendor shall not operate a mobile food vehicle within 500 feet of any fair, festival, special event or civic event that is licensed or sanctioned by the City unless the vendor has obtained permission from the event sponsor.

K. The issuance of a mobile food vehicle license does not grant or entitle the vendor to the exclusive use of any service route or parking space to the license holder.

L. A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner. A private property owner shall not permit parking by a mobile food vehicle until a special use permit has been obtained to allow for such use.

M. No mobile food vehicle shall use external signage, bollards, seating or other equipment not contained within the vehicle. When extended, awnings for mobile food vehicles shall have a minimum clearance of 7 feet between the ground level and the lowest point of the awning or support structure.

N. Any power required for the mobile food vehicle located on a public way shall be self-contained and a mobile food vehicle shall not use utilities drawn from the public right-of-way. Mobile food vehicles on private property may use electrical power from the property being occupied or an adjacent property, but only when the property owner provides written consent to do so. All power sources must be self-contained. No power cable or equipment shall be extended at or across any City street, alley or sidewalk.

O. Mobile food vehicles shall not be parked within 150 feet of an existing, brick and mortar restaurant during the hours when such restaurant is open to the public for business.

### **Section 25-68. Enforcement**

A. Any license holder operating a mobile food vehicle in violation of any provision of this ordinance or any rules and regulations promulgated by the City shall be subject to a civil fine of \$250 per day. Each day of violation shall constitute a separate and distinct offense.

B. Once a license has been issued it may be revoked, suspended or not renewed by the City Clerk for failure to comply with the provisions of this ordinance and any rules or regulations promulgated by the City.

### **Section 2. Repealer.**

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

### **Section 3. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction,

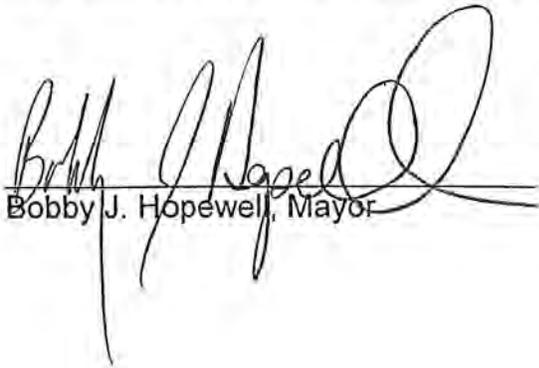
said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

**Section 4. Effective Date.**

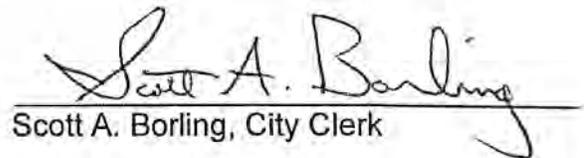
Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its passage.

**CERTIFICATE**

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on August 20, 2012. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.



Bobby J. Hopewell, Mayor



Scott A. Borling, City Clerk

**ORDINANCE NO. 982**

**AN ORDINANCE TO AMEND SECTIONS 110.11, 110.27 AND 110.99 OF THE MOUNT PLEASANT CITY CODE TO REGULATE VENDORS AND TO PROVIDE CERTAIN PENALTIES FOR VIOLATIONS AND TO ADD SECTION 110.28 TO REGULATE MOBILE FOOD SERVICE PROVIDERS.**

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF MOUNT PLEASANT:

Section 1. Amendment. Section 110.11 of Chapter 110, "General Licensing," of the Mount Pleasant City Code is amended to read as follows:

§ 110.11. **REQUIRED LICENSE.** No person shall engage in the businesses or activities listed in this section without first obtaining a license which shall require payment of a license fee in amounts set from time to time by City Commission resolutions.

- (A) Auctioneers;
- (B) Circus, menagerie, carnival, exhibition, side show;
- (C) Junk Dealers;
- (D) Mobile food service providers;
- (E) Pawnbrokers;
- (F) Taxicab businesses, vehicles, and drivers; and
- (G) Vendors.

Section 2. Amendment. Section 110.27 of Chapter 110, "General Licensing," of the Mount Pleasant City Code, is amended to read as follows:

§ 110.27. **VENDORS.**

(A) *DEFINITIONS.* For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*PEDDLER.* Any person who travels from place to place for the purpose of distributing leaflets, pamphlets, fliers, or other literature, displaying, selling, making sales, offering for sale, or leasing with the option to buy, takes orders for, or attempts to take orders for the retail sale of any goods, property, or services whatsoever for current or future delivery. Peddler includes any person who travels by foot, vehicle, wagon, cart or any other means displaying, selling, offering for sale, taking orders for sale, or leasing with the option to buy, at retail, any food, goods, property, or service. Peddler also includes any person who operates a pushcart, or other structure powered by bicycle or human power, with at least two operational wheels, which can be easily moved and which is used by a vendor to conduct sales.

*PERSON.* Any natural person, corporation or partnership, including both principals and agents thereof, or two or more persons having a joint or common interest.

*TRANSIENT MERCHANT.* Any person, firm, association or corporation, while not traveling from place to place, engaging temporarily in a retail sale of food, goods, wares or merchandise in any place in the city and who for the purpose of conducting business temporarily occupies any private lot, building, room or structure of any kind. This ordinance shall not be construed to permit sales on City-owned property unless authorized under a separate written agreement.

*VENDORS.* Any “peddler” or “transient merchant” as provided in this section. Vendor shall not include a person selling at an art fair, farmers’ market, festival or similar special event at the invitation of the event’s sponsor, if all of the following conditions are met:

- (1) The sponsor has obtained a vendor's license;
- (2) The person provides the sponsor with the person's sales tax license number.

(B) *LICENSE REQUIRED.* No vendor shall engage in such business within the City without first obtaining a license as provided under this Chapter. Such licenses shall be subject to the application fees as may be set from time to time by the City Commission and paid in accordance with City Code § 110.08. Transient Merchant license fee waived if currently licensed and using truck/trailer as Mobile Food Service Provider.

(C) *REGULATIONS.* In addition to the license requirements in this Chapter, and except as otherwise provided, the following regulations apply to vendors:

(1) Vendors who conduct their business by going door-to-door shall not solicit at any premises posted with a NO SOLICITATION sign or other similar marking.

(2) No vendor shall have any exclusive right to any location in the public street, sidewalk, or right-of-way, or be permitted a permanent, stationary location, or be permitted to operate in any congested area where his or her operations impede or inconvenience the public. For the purpose of this section, the judgment of a police officer or Code Enforcement Officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public has been impeded or inconvenienced.

(3) Unless otherwise first authorized in writing by the City, no vendor shall obstruct any street, alley, sidewalk or driveway, except as may be necessary and reasonable to consummate a sale or engage in any business regulated by this chapter. Except with prior written permission of appropriate school officials, no vendor shall conduct any sale within 150 feet of the entrance of any school building between the hours of 8:00 a.m. and 5:00 p.m. on the days when school is in session.

(4) Applicants for a vendors license who are selling, or offering to sell food, goods, wares, and merchandise owned by themselves, who furnish to the City Clerk, with all other license application materials, proof of an honorable discharge from the armed services and a copy of a license issued pursuant to 1921 PA 359, as amended, MCL 35.441 through 35.443, shall not be required to pay the annual license fee.

(5) Individuals or groups wishing to do their business under this section in any City park must first secure written permission from the Parks Director before applying for a license, and shall comply with all applicable park rental fees, rules, and regulations.

(6) Vendors shall present a valid license for inspection or examination when requested by any City Public Safety Officer or City official.

(7) No vendor shall sell or offer for sale any unsound, unripe or unwholesome food or drink or any defective, faulty or deteriorated article of food.

(D) *EXCEPTIONS.* The provisions of this chapter shall not apply to any of the following:

(1) Representatives of duly established businesses, located elsewhere, calling upon merchants or other established businesses for the purposes of selling them merchandise or services and who normally make repeated calls on such businesses at regular intervals, such as wholesale suppliers, office supply firms and similar businesses.

- (2) Solicitations including sale or distribution of goods, wares, merchandise, leaflets, pamphlets or other materials for religious, charitable or political purposes.

Section 3. Amendment. Section 110.28 of Chapter 110, "General Licensing," of the Mount Pleasant City Code, is added to read as follows:

§ 110.28. **MOBILE FOOD SERVICE PROVIDERS.**

(A) *PURPOSE*. The purpose of this section is to license and regulate the movement, location, business practices and hours of operation of mobile food providers in the City; to reduce vehicular and pedestrian traffic congestion; to promote the safe use of the streets and sidewalks; and, to protect the health, safety, and welfare of the people of the City.

(B) *MOBILE FOOD SERVICE PROVIDER DEFINED*. For the purpose of this section, unless the context clearly indicates or requires a different meaning, "mobile food service provider" means a motorized vehicle which, upon issuance of a license by the City Clerk and conformance with the regulations under this chapter, may temporarily park upon a public street or in a public parking lot, and engage in the preparation, service, sale or distribution of ready-to-eat food for individual portion service to the general public directly from the vehicle. For the purposes of this section, mobile food vehicle includes a trailer pulled by a motorized vehicle engaged in the preparation, service, sale, or distribution of ready-to-eat food for individual portion service to the general public directly from the trailer, and shall include cookers, grills, smokers or other similar apparatuses. Mobile Food Service Provider shall be considered a Transient Merchant and will be subject to all Transient Merchant regulations when operating on private property with the permission of the property owner. Mobile food service provider shall not include a person selling at an art fair, farmers' market, festival or similar special event at the invitation of the event's sponsor, if all of the following conditions are met:

- (1) The sponsor has obtained a vendor's license;
- (2) The person provides the sponsor with the person's sales tax license number.

(C) *LICENSE REQUIREMENTS*. No mobile food service provider may engage in the service, sale, or distribution of food in the City without first obtaining a license from the City Clerk. The City Clerk shall charge an application fee for mobile food service provider licenses. Such licenses shall be subject to the application fees as may be set from time to time by the City Commission and paid in accordance with City Code § 110.08. Mobile Food Service Provider license fee waived if currently licensed and using truck/trailer as a Transient Merchant. The City Clerk may annually issue up to 12 mobile food service provider licenses per year.

(D) *REGULATIONS*.

- (1) Mobile food service providers may conduct business in the C-2 Central Business District as defined in § 154.066 as well as on-street parking places on South Main Street from East High Street on the north to East Bellows Street on the south. Mobile food service providers may not conduct business in any other area of the City.
- (2) Mobile food service providers may conduct business only between the hours of 8:00 p.m. and 3:00 a.m. Mobile food service providers shall not conduct business at any other time.
- (3) Mobile food service providers may conduct business in on-street parking places and public parking lots during the permitted hours of operation. While conducting business, mobile food service providers shall operate in such a manner so as not to interfere with pedestrian or

vehicular traffic. If directed by City staff or public safety personnel for snow plows or in response to emergency situations, mobile food service providers shall promptly relocate.

(4) Mobile food service providers shall serve customers only on the curb, lawn, or sidewalk side of the mobile food service vehicle while parked in on-street parking spaces. Mobile food service providers shall not provide food service in any right-of-way. Mobile food service providers may serve customers only when parked.

(5) If operating on sidewalks or while parked on City streets or in public parking lots, mobile food service providers shall not supply or provide tables and chairs, booths, stools, benches, tents, or other similar dining area for customers.

(6) Mobile food service providers shall provide adequate dining utensils as reasonably necessary for its customers. Mobile food service providers shall place a trash receptacle outside the mobile food service vehicle which shall be emptied and disposed of off-site by the mobile food service provider each day. The mobile food service provider shall keep the area in which it operates clean, sightly, and free of trash. Mobile food service providers shall be completely self-contained, and are prohibited from utilizing any City electrical outlets, water from city hydrants, and disposing of liquid wastes, including but not limited to grease, into storm or sanitary sewers.

(7) Mobile food service providers shall not be parked on the street, or in public parking lots in which they intend to provide service overnight or left unattended and unsecured at any time food is in the vehicle.

(8) Mobile food service providers shall comply at all times with all City nuisance regulations as provided in Chapter 96 of the Mount Pleasant City Code.

(9) Mobile food service providers shall not be located within 150 feet of a permanent business with a food license during the business's hours of operation.

(10) A license is valid only for each individual vehicle or trailer operated by a mobile food service provider and shall not be transferred among vehicles or trailers.

(11) Mobile food service providers shall present a valid license for inspection or examination when requested by any City Public Safety Officer or City official.

(12) Applicants for a mobile food service providers license who are selling, or offering to sell food, owned by themselves, who furnish to the City Clerk, with all other license application materials, proof of an honorable discharge from the armed services and a copy of a license issued pursuant to 1921 PA 359, as amended, MCL 35.441 through 35.443, shall not be required to pay the annual license fee.

(13) Mobile food service providers shall comply with all applicable laws, rules, regulations and licensing or permit requirements including, but not limited to those issued by the Isabella County Health Department or the Michigan Department of Agriculture and Rural Development or its successor agency, the Michigan Secretary of State, the Michigan Liquor Control Code, and any other agency with licensing or regulatory jurisdiction over the mobile food service provider.

(14) Mobile food service providers shall not offer or advertise the offering of beer, wine, or other alcoholic beverages.

(E) *LICENSE REVOCATION OR SUSPENSION.* Any mobile food service provider that violates any provision of this section may, in addition to any other penalties, have its license suspended or revoked as provided in City Code § 110.04.

(F) *SUNSET PROVISION.* The provisions of § 110.28 shall expire one year from the date the amended ordinance goes into effect.

Section 4. Amendment. Section 110.99 of Chapter 110, “General Licensing,” of the Mount Pleasant City Code is amended to read as follows:

§ 110.99. **PENALTY.** Any person violating any of the provisions of this chapter shall be guilty of a municipal civil infraction in accordance with City Code § 36.01 *et seq.* Except as otherwise provided, the fine for violation of any provision of this chapter shall be \$50 for the first offense; \$100 for the second offense; and \$250 for third and subsequent violations within a 12-month period. Each day in violation shall constitute a separate offense. Any person violating the provisions of this chapter licensing mobile food service providers, peddlers, or transient merchants shall be fined in accordance with the following:

(1) Mobile food service providers licensed under City code § 110.28 violating any provision of this chapter shall be fined 150% of the license fee as set from time to time by resolution of the City Commission for the first offense; 200% of the license fee as set from time to time by resolution of the City Commission for the second offense; and 250% of the license fee as set from time to time by resolution of the City Commission for third and subsequent violations within a 12-month period. Each day in violation shall constitute a separate offense.

(2) Peddlers licensed under City code § 110.27 violating any provision of this chapter shall be fined 150% of the license fee as set from time to time by resolution of the City Commission for the first offense; 200% of the license fee as set from time to time by resolution of the City Commission for the second offense; and 250% of the license fee as set from time to time by resolution of the City Commission for third and subsequent violations within a 12-month period. Each day in violation shall constitute a separate offense.

(3) Transient merchants licensed under City code § 110.27 violating any provision of this chapter shall be fined 150% of the license fee as set from time to time by resolution of the City Commission for the first offense; 200% of the license fee as set from time to time by resolution of the City Commission for the second offense, and 250% of the license fee as set from time to time by resolution of the City Commission for third and subsequent violations within a 12-month period. Each day in violation shall constitute a separate offense.

Section 5. Publication and Effective Date. The City Clerk shall cause to be published a notice of adoption of this ordinance within 10 days of the date of its adoption. This ordinance shall take effect 30 days after its adoption.

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Kathleen Ling, Mayor

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Jeremy Howard, City Clerk

Introduced: September 23, 2013  
Adopted: October 14, 2013  
Published: October 22, 2013  
Effective: November 13, 2013

**City of St. Joseph  
Berrien County, Michigan**

An ordinance to amend Chapter 21, "Vending Ordinance" of the City of St. Joseph Code of Ordinances

**THE CITY OF ST. JOSEPH ORDAINS:**

Chapter 21 of the St. Joseph Code of Ordinances is hereby amended in its entirety and shall now read as follows:

**Chapter 21  
VENDING ORDINANCE**

- Sec. 21-1. Purpose.
- Sec. 21-2. Definitions.
- Sec. 21-3. Vending locations.
- Sec. 21-4. Special Event Vendor licenses.
- Sec. 21-5. Licenses, fees and application.
- Sec. 21-6. Additional regulations
- Sec. 21-7. Enforcement.
- Sec. 21-8. Revocation.
- Sec. 21-9. Right to appeal
- Sec. 21-10. Canvassers
- Sec. 21-11. Other permits or licenses
- Sec. 21-12. Appearance tickets.
- Sec. 21-13. Civil infraction.
- Sec. 21-14. Severability.

**Sec. 21-1. Purpose.**

The purpose of this chapter is to license and regulate the movement, location, business practices and hours of operation of Vendors in the City; to reduce vehicular and pedestrian traffic congestion; to promote the safe use of the streets, alleys and sidewalks; to encourage, preserve and enhance the "small town charm" and ambiance of the downtown area; to safeguard against insect and rodent infestation; to assure the highest quality offering of food and other products; to otherwise protect the health; safety and welfare of the people of the City; and to protect the citizens' quiet enjoyment and peace while leaving ample business opportunity and means for Vendors.

**Sec. 21-2. Definitions.**

1. *Vendor*: Every person who offers goods or services for sale on the streets or from a vehicle or a stand open to the street, whose business is conducted from a vehicle, cart, stand or temporary structure. For purposes of this chapter, Vendor shall be described as the following: Stationary Vendor, Day Vendor, Special Event Vendor, Moving Vendor and Peddler. A person conducting a garage sale as defined in Chapter 24 of the Code in a zoning district in which a garage sale is permitted is not considered a Vendor for purposes of this Chapter. For the purposes of this chapter, a temporary structure includes those structures defined as personal property under MCL 211.8.

- a. *Day Vendor*: Operator of a portable vending cart or motorized vending unit, selling goods from a single approved site. The portable vending cart or motorized vending unit must be removed every evening after vending hours have ended.
- b. *Moving Day Vendor*: Operator of a portable vending cart or motorized vending unit selling goods while moving along an approved vending location.
- c. *Special Event Vendor*: Operator of a stationary stand or portable vending cart licensed for a limited, specific period in association with a special event. The stationary stand or portable vending cart may be left on site for the duration of the event, and may be located on private property. The Special Event Vendor shall be licensed by the special event organization which has been approved by the city commission to organize a special event or by the City of St. Joseph if the special event organization has waived vending rights.
- d. *Peddler*: Every person traveling by foot, wagon, bicycle or other similar conveyance from place to place, house to house, business to business, or street to street, selling or offering for sale any goods or services, whether for current or future delivery.

Excluded from this definition are persons: (1) making delivery of goods previously ordered by any business or personal customer; (2) a person or business whose activity in major part is driving a regular route to the location of existing customers who have arranged for return visits; (3) all Vendors that fall under an approved Special Event designation;(4) persons working on behalf of a religious, political or non-profit charitable organization selling goods or services for that organization for its fund-raising, seeking donations, distributing information or seeking signatures on petitions; (5) canvassers.

- e. *Stationary Vendor*: Operator of a stationary stand, which shall remain on a single approved site for the entire period of the Vendor license, and if preparation and sale of unpackaged food products is offered, must have water, sanitary sewer and electric and/or gas utilities.
2. A business located and operated in a permanent building or permanent structure having a fixed location and a roof supported by columns, walls or other support and used or built for the conduct of business and defined as real property under MCL 211.2, is not considered a Vendor for the purpose of this chapter.
  3. *Canvasser*: *Canvasser* means any person traveling by foot, wagon, motor vehicle or other conveyance, from place to place, house to house, business to business, or street to street, on behalf of a religious, political, educational or non-profit charitable organization selling goods or services for that organization for its fund-raising, seeking donations, distributing information or seeking signatures on petitions. A Canvasser is not considered a Vendor for purposes of this chapter, but is subject to regulation as further set forth in this Chapter.
  4. *Vending Stand and Cart Definitions*:
    - a. *Motorized Vending Unit* shall mean any licensed motorized vehicle with two (2) or more wheels, the primary purpose and design being for vending purposes.

- b. *Portable Vending Cart* shall mean a cart with at least two (2) operating wheels, which is movable by one (1) person, the primary purpose and design being for vending purposes.
- c. *Stationary Stand* means a non-motorized vending trailer or shed, tent or other vending stand not movable by one (1) person.

5. *Vending Location Definitions:*

- a. *Day Vendor Location:* A site suitable for a portable vending cart to remain fixed during vending hours and, removed after vending hours. The location shall be as established by resolution of the city commission. Approval of a Day Vendor site means the Vendor has an exclusive right to the location for the period of the license.
- b. *Street Vending Locations:* Sites specified for Moving Day Vendors as established by resolution of the city commission, which may include parks, right of ways, sidewalks, or vacant City property. Moving Day Vendors shall not remain fixed on one site any longer than reasonable and necessary to complete a transaction. Moving Day Vendors have no exclusive right to any location and shall not block sidewalks or cause traffic congestion.
- c. *Special Event Vendor Location:* Vendor sites in an area approved under a Special Event Vendor license for a specified period of time. The area in which Day Vendors may operate is designated in a special event application. The city commission shall approve the Special Event Vendor license by resolution. The special event organization approves Vendors based upon their own criteria. The city commission may by Resolution approve special event vending locations in those cases where the special event organization has waived vending rights.
- d. *Stationary Location:* A site where a stationary Vendor places a stationary stand for the duration of the vending season. No public property or right of way shall be utilized for stationary vending.

**Sec. 21-3. Vending Locations.**

1. The city commission shall by resolution establish vending areas where vending may be located and the number and types of Vendors by area, except as follows:
  - a. Vendor licenses are not permitted in the Whirlpool Compass Fountain park area or the public sidewalks abutting it, or on the public sidewalks abutting the Silver Beach Center.
  - b. Moving Day Vendors and Peddlers are not permitted in the DDA district.
2. Vendor licenses may be granted for sales from a stationary stand, portable vending cart or motorized vending unit operating on private property in the D-Downtown District under the following circumstances:
  - a. No more than one (1) Vendor is permitted per lot of record at any one time, providing the Vendor has met the licensing requirements set forth in this Chapter and all applicable standards of the zoning and/or building ordinances for outdoor display of goods have been met, or

- b. The Vendors are authorized under a Special Event Vendor license.
- 3. Vendor licenses are not required for sales on private property not in the D-Downtown District when such sales are sanctioned by the property owner and conducted from a portable vending cart or motorized vending unit.

**Sec. 21-4. Special Event Vendor License.**

- 1. Vending license limitations may be expanded or waived during approved special events authorized by resolution of the city commission.
- 2. The city commission may authorize the city manager to issue a Vendor license to valid local not-for-profit organizations sponsoring and operating a special event within a specified area of the City. No person, group or organization shall sell any food, merchandise, goods, services, amusements, rides or other items on any public street, alley, sidewalk or other public property within the special event area during the time of the special event without first being approved by the sponsoring not-for-profit organization overseeing the special community event.

**Sec. 21-5. License; fees and application.**

- 1. *License required:* It shall be unlawful for any person to engage in business as a Vendor within the City without first having obtained a license from the city clerk as provided in this Chapter. A separate license is required for each Vendor stand, motorized vending unit or portable vending cart unless exempt under Sec. 21-3.3.
- 2. *License term:* The term for a Vendor License shall be:
  - a. Day Vendors - Seasonal
  - b. Moving Day Vendors – Daily
  - c. Special Event Vendors – Daily or per the special event approval
  - d. Stationary Vendors – Seasonal
  - e. Peddlers – Daily

Seasonal shall mean April 1 through October 31 of the year issued.

- 3. *Application Deadline:* The application deadline for vending Licenses shall be:
  - a. Seasonal Vending Licenses – January 31<sup>st</sup> of each year. Applications shall be presented to the city commission for approval at the second regularly scheduled meeting in February.
  - b. Daily or Special Event Licenses – No less than ten (10) days before the city commission meeting during which approval will be requested.
- 4. *Fees:* All fees for the various categories of Vendor licenses shall be established by resolution of the city commission. Upon certification of the County Clerk, an eligible veteran will be exempt from all vending fees (MCL 35.61 - .62).

5. *Application:* An applicant shall file with the city clerk a written application, upon a form provided for that purpose. The following information is required in the application:
  - a. Name, address, date of birth, driver's license number, and telephone number of the applicant;
  - b. The criminal history of the applicant;
  - c. A color photograph of the stand or cart;
  - d. The nature, character and quality of the goods or services offered for sale or delivery;
  - e. Nature of business and method of distributing products;
  - f. Nature of license requested and proposed location;
  - g. Dates and times of operation being requested;
  - h. Names and addresses of employees or agent who will be assisting the applicant in the proposed business;
  - i. License number of any vehicle which is to be used;
  - j. Proof that the applicant possesses all licenses or permits required by this municipality, Berrien County or State of Michigan for the operation of the proposed business and that such license or permits are consistent with the terms of the vending being proposed by the applicant (must be provided before license will be granted);
  - k. Proof that the applicant possesses a valid retail Vendor sales tax permit from the Michigan Department of Treasury, if a sales tax permit is required for the type of proposed operation (must be provided before license will be granted);
  - l. Proof of insurance as required in this Chapter (must be provided before license will be granted);
  - m. Any other information which is required by the city clerk to clarify items on the application.
6. *Basis for reviewing and granting licenses:* To assure that the purposes of this Chapter are met, licenses will be reviewed and granted based upon:
  - a. The completeness of the application;
  - b. The quality and legitimacy of the product offered for sale;
  - c. The construction and design of the stand, cart or mobile vending unit to be used;
  - d. The Vendor's previous vending performance, including citizen complaints, ordinance violations, etc.

7. *Minimum Requirements:*

a. The following are minimum requirements that must be met:

- 1) The applicant must be over the age of 18;
- 2) The applicant must be current in all payments due to the City, including but not limited to taxes, fees, fines or penalties;
- 3) The applicant must completely and truthfully answer all questions and provide all requested information on the application;
- 4) The applicant must provide proof of a license or permit required by this chapter or by County or State law for the operation of the proposed business;
- 5) The applicant, applicant's employees or agents, individually or cumulatively, may not have been convicted of a violation of this chapter, within the three years immediately preceding the application. A plea of guilty or no contest in any court of law shall constitute a conviction for purposes of this provision. A conviction on appeal shall have no effect.
- 6) The applicant must pay the required application fee;
- 7) The applicant and the proposed business must be in compliance with all applicable laws, rules, ordinances, and regulations of the federal, state, and city government, including all regulatory agencies;
- 8) The applicant's business or method of doing business must not substantially interfere with traffic flow on public streets or sidewalks; and
- 9) Approved sites, as designated by the city commission, must be available.

b. If the city clerk finds any of the requirements listed above have not been met, the city clerk shall deny the application and send to the applicant by registered mail, return receipt requested, a written statement setting forth the reason or reasons for the denial and notifying the applicant of his or her right to appeal.

8. *Investigation:* When an application and fee have been filed and approved as meeting all minimum requirements, the city clerk shall transmit the application to the public safety director. The public safety director shall make an appropriate investigation of the applicant, which may include but is not limited to, a review of the applicant's background, an inspection of the stand or cart, and an inspection of the proposed vending location, to insure compliance with this chapter. No license will be issued against the recommendation of the public safety director.

9. *City commission approval:* With the approval of the public safety director, the application shall be placed on the agenda for review and consideration by the city commission at its next regularly scheduled meeting.

10. *Issuance of license:* Upon receipt of the license fee and proof of all other required certificates, licenses and insurance, the city clerk shall issue the license to the applicant within ten (10) business days of city commission approval.

**Sec. 21-6. Additional regulations.** All Vendors shall abide by the following additional requirements and restrictions:

1. Sales limited to products on application: Sales shall be limited to the products specified on the application.
2. *Licenses; non-assignable and non-transferable:* Licenses issued under the authority of this chapter shall be non-assignable and non-transferable.
3. *Display of license required:* All licenses shall be displayed in a prominent place on the stationary stand, portable cart or motorized vending unit. The failure of a licensee to conspicuously display such license when engaged in licensed business shall be sufficient cause for the suspension or revocation of the license. All Moving Day Vendors and Peddlers shall display a name tag supplied by the City of St. Joseph and clearly stating Vendor approval dates.
4. *Prices posted:* All prices charged for each item offered for sale shall be posted on the stand or push cart, no item shall be sold for more than the posted price.

Business hours, restrictions: Day Vendors, Moving Day Vendors and Stationary Vendors may conduct business between 9:00 a.m. and 10:00 p.m. or as otherwise regulated on a location basis as determined by resolution of the city commission. Peddlers may engage in business between 9:00 a.m. and sundown. These restrictions shall not apply to Special Event Vendors operating under a Special Event Permit approved by the city commission.

5. *Traffic regulations:* All Vendors must comply with all traffic, parking, and sidewalk regulations and policies.
6. *Obstructing public places:* Moving Day Vendors shall not occupy a stationary location on a public street, sidewalk, parkway, park, parking lot, or any other public property which is to be used by pedestrians or persons operating motor vehicles, or operate in such a manner as to cause obstruction or blocking of pedestrian or vehicular access. Such Vendor shall be presumed to have occupied a stationary location if he/she has conducted business in any such place for a period in excess of ten (10) minutes.
7. *Prohibited locations for sale:* Sales shall not be made to persons standing in the roadway, to occupants of vehicles at red lights, or to occupants of vehicles in moving traffic lanes.
8. *Off-limit locations:* Business shall not be conducted within fifty (50) feet of any school, church, synagogue or place of worship during services or within one-hour of services; courthouse; police station; or other public location unless specifically authorized pursuant to the terms of the license. In addition, the City manager shall have power to designate such streets, sidewalks, parts of streets, or sidewalks, districts or areas where it shall be unlawful for any licensee to operate or conduct her/his business, such designation to be made based

upon congested traffic conditions, character of the neighborhood, or if the conduct of such business constitutes a public nuisance.

9. *Proof of insurance:* All Vendors must obtain and maintain a policy of liability insurance by a company licensed to do business in the State of Michigan and approved by the City. Insurance coverage must be in the minimum amount of One Million Dollars (\$1,000,000.00) for personal injury and property damage arising out of the licensed operation, including operation by employees, agents or independent contractors. Proof of insurance must be provided to the City before a license can be granted and thereafter upon reasonable request. The insurance policy for Vendors operating on public property shall directly protect the City of St. Joseph, its officers, employees and agents as additional named insureds, and shall provide that the insurance be primary. The policy shall provide thirty (30) days prior written notice of revocation, cancellation, or amendment to the City.
10. *Hold harmless:* All Vendors shall agree to hold harmless and protect the City of St. Joseph, its officers, employees and agents from any liability, claims, costs, expense or attorney fees arising out of the licensed operation that is not covered by the Vendor's required insurance.
11. *Litter clean up required:* All Vendors shall keep the sidewalks, street and other public places adjoining and adjacent to their locations of business clean and free from any refuse generated from the operation of their business. Vendors shall dispose of their own refuse and shall not use City trash receptacles.
12. *Loud noise/speaking devices/lights:*
  - a. Vendors shall not, or cause any person on the Vendor's behalf to, shout, cry, blow a horn, ring a bell, or use any sound device, including loud speakers or sound amplifiers, upon any streets, alleys, parks or other public places of the City, or upon any private premises, for the purpose of attracting attention to any goods, wares or merchandise which the Vendor proposes to sell.
  - b. Vendors shall not, or cause any person on the Vendor's behalf to, use or employ any flashing lights on any vehicle or any other device for the purpose of attracting attention to any goods, wares or merchandise which the Vendor proposes to sell.
13. *"No Soliciting" sign:* Vendors shall not enter onto property that has a posted "no trespassing," "no visitors," "no soliciting," "no peddling," "do not disturb," or similar notification making apparent the desires of the owner or occupant of the premises, and shall immediately leave the property after being requested to leave by the occupant.
14. *Threatening or harassing behavior:* Vendors shall not threaten or harass any citizen in the course of their activities or in any way engage in conduct that threatens the health and safety of another or causes a nuisance.
15. *Sales limited to products on application:* Vendors shall be limited to the sale of products specified on the application. Amendments to originally approved applications may be made to the city clerk. However, an application fee of an amount established from time to time by resolution of the city commission must accompany each request for a new item.

**Sec. 21-7. Enforcement.**

1. It shall be the duty of any police officer to require any person seen soliciting, merchandising, or vending and who is not known by such officer to be duly licensed, to show proof of a license issued by the city clerk, and to enforce the provisions of this chapter against any person found to be violating them.
2. Any police officer may enter any licensed premises at any time during business hours for the purpose of ascertaining the manner in which such business is conducted and to investigate complaints. At all such times, the officer shall be permitted access to the books of such business to ascertain compliance with the provisions of this chapter.
3. It shall be the duty of any police officer to examine all places of business and persons in their territories subject to the provisions of this chapter to verify compliance with this chapter and to enforce the provisions of this chapter.

**Sec. 21-8. Revocation.**

1. The city clerk is authorized to revoke any license issued under this chapter for violation of the provisions of this chapter, including, but not limited to the following:
  - a. The Vendor has violated any provision of this Chapter, any provision of the St. Joseph Code of Ordinances, or state or federal laws, rules or regulations.
  - b. The Vendor has made a false material statement in the application or has otherwise become disqualified for issuance of the permit.
  - c. The Vendor has had a written complaint filed against it for violation of this Article and probable cause exists for substantiation of the complaint.
  - d. The Vendor has acted in a manner contrary to the public health, safety or welfare of the citizens of St. Joseph.
2. The city clerk shall provide the Vendor with written notice of the revocation by personal service or by first class mail at the address listed on the license application. The city clerk shall also inform the Vendor of its right to appeal. An appeal shall not stay the action of the city clerk.

**Sec. 21-9. Right to Appeal.** A Vendor may appeal the city clerk's or public safety director's license denial, or a license revocation, by filing a written request with the city clerk's office within fourteen (14) days of the date appearing on the notice of revocation. The hearing shall be held by the City manager or the City manager's designated representative within seven (7) days of the appeal being filed.

**Sec. 21-10. Canvassers.**

1. *Canvasser registration required:* All canvassers shall register with the city clerk's office prior to canvassing in the City. Such registration shall require: the name, address, telephone number, photo identification review, vehicle license number and date of birth of the peddler. The canvasser shall describe the goods or services being sold and the general terms of the transactions. The canvasser shall provide the name, address, telephone number, and

information about the company or venture the canvasser represents. The canvasser shall further provide the name, address, telephone number, business hours of a contact person at the organization the canvasser represents. Copies of brochures or promotional materials shall be left with the city clerk. The city clerk's office may examine samples, catalogs or other materials. The city clerk or director of public safety or his/her designee may verify the canvasser's affiliation or authority to represent the non-profit charitable organization.

2. *Prohibited canvassing:* Canvassing is prohibited on any privately owned premises that is posted with a sign or other notice stating "no trespassing," "no visitors," "no soliciting," "no peddling," "do not disturb," or similar notification making apparent the desires of the owner or occupant of the premises and shall immediately leave the property after being requested to leave by the occupant or person in charge of such premises.
3. *Business hours, restrictions:* Canvassing may be conducted between 9:00 a.m. and sundown.

#### **Sec. 21-11. Other permits or licenses.**

A license obtained under this Article shall not relieve a person of the responsibility for obtaining any other license or authorization required by any other ordinance, statute or administrative rule.

#### **Sec. 21-12. Appearance tickets.**

The director of public safety and the appointed officers of the public safety department, or such officials as are designated by the City manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of Public Acts of 1968, as amended; MCL 764.9c(2). Appearance tickets shall be in such form as determined by the City attorney and shall be in conformity with all statutory requirements.

#### **Sec. 21-13. Civil Infraction.**

A person who violates this Chapter is responsible for a civil infraction and subject to a fine of not less than \$100 or more than \$500, per occurrence.

#### **Sec. 21-14. Severability.**

Should any section, subsection, sentence, clause, phrase or portion of this chapter be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this chapter.

# Chapter 865

## Mobile Food Vending

865.01	Intent	865.09	Parking Beyond Limits
865.02	Definitions		Allowed by City Ordinance
865.03	Permit Required		and Order
865.04	Duration; Non-Transferability	865.10	Impoundment
865.05	Application	865.11	Other Permits
865.06	Fees	865.12	Revocation
865.07	Investigation by the Chief	865.13	Complaints; Appeals
	Of Police	865.14	Appearance Tickets
865.08	Requirements	865.15	Civil Infraction

**865.01 INTENT.**

In the interest of encouraging mobile food vendors who add to the vibrancy and desirability of Traverse City, while providing a framework under which such businesses operate, this ordinance is established. (Ord. 963. Passed 5-6-13)

**865.02 DEFINITIONS.**

- (a) *Mobile Food Vending* shall mean vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a Food Service Establishment under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in Mobile Food Vending.
- (b) *Mobile Food Vending unit* shall mean any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.
- (c) *Vendor* shall mean any individual engaged in the business of Mobile Food Vending; if more than one individual is operating a single stand, cart or other means of conveyance, then Vendor shall mean all individuals operating such single stand, cart or other means of conveyance.
- (d) *Operate* shall mean all activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.

(Ord. 963. Passed 5-6-13)

**865.03 PERMIT REQUIRED.**

No vendor shall engage in Mobile Food Vending without a permit from the City Clerk authorizing such vending. The City Clerk shall prescribe the form of such permits and application for such permit. All permits shall be prominently displayed on the mobile food vending unit. No vending through a Mobile Food Vending Unit of food and/or other human

consumables shall be permitted unless it meets the definition of Mobile Food Vending as defined by this ordinance. (Ord. 963. Passed 5-6-13)

**865.04 DURATION; NON-TRANSFERABILITY.**

Permits may be issued by the City Clerk for a calendar year from the date of issuance. Any permit issued under this Chapter is non-transferable. (Ord. 963. Passed 5-6-13)

**865.05 APPLICATION.**

Every vendor desiring to engage in Mobile Food Vending shall make a written application to the City Clerk for a permit under this Chapter. The applicant shall truthfully state, in full, all information requested by the City Clerk and be accompanied by a fee established by resolution of the City Commission. Additionally, the applicant shall provide all documentation, such as insurance, as required by the city. (Ord. 963. Passed 5-6-13)

**865.06 FEES.**

An application for a permit under this Chapter shall be accompanied by a fee in the amount established by resolution of the City Commission. There shall be no proration of fees. Fees are non-refundable once a permit has been issued by the City Clerk. No fee shall be charged to any honorably discharged veteran of the United States Military who is a resident of the State of Michigan and submits official documentation evidencing such to the City Clerk. If operating on non-city property, no fee shall be charged to a business which is on the city's tax rolls whose normal business includes the sale of food and/or beverages. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this Chapter. (Ord. 963. Passed 5-6-13)

**865.07 INVESTIGATION BY THE CITY CLERK.**

For Mobile Food Vending within residential areas, approval must be given by the City Clerk prior to issuance of a permit by the City Clerk. (Ord. 963. Passed 5-6-13. Ord. 1026. Passed 9-8-15)

**865.08 REQUIREMENTS.**

Any vendor engaging in Mobile Food Vending shall comply with the following requirements:

1. Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis.
2. If operating on city-owned or controlled property, may only locate on such property as established in a resolution adopted by the City Commission. If parked on public streets, vendors shall conform to all applicable parking regulations.
3. Not operate on public property within one block of a city-authorized street fair, public festival, farmers market or event being conducted without authorization from the event sponsor.
4. Not use any flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
5. Not use loud music, amplification devices or "crying out" or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the City.
6. Comply with the city's Noise Ordinance, Sign Ordinance and all other City

ordinances.

7. Comply with all applicable federal, state and county regulations.
8. May have one portable sign that is six square feet, with no dimension greater than 3 feet and no height (with legs) greater than 4 feet, located within five feet of the unit; and under no circumstances shall such sign be placed upon the sidewalk or impede pedestrian and/or vehicle safety.
9. Within residential areas, a mobile food vendor may only operate between the hours of 9 a.m. and 9 p.m.; and in commercial areas, a mobile food vendor may only operate between the hours of 7 a.m. and 11 p.m. On private property within Commercial Area, a mobile food vendor may only operate between the hours of 6:00 a.m. and 3 a.m. Other restrictions regarding hours of operation may be established by resolution of the City Commission.
10. No Mobile Food Vending Unit may be left unattended for more than 2 hours; and any Mobile Food Vending Unit not in operation shall be removed between the hours of 11 p.m. and 7 a.m. in commercial areas and 9 p.m. to 9 a.m. in residential areas. This subsection applies to Mobile Food Vending Units operating on city-controlled property only.
11. Not represent the granting of a permit under this Chapter as an endorsement by the city.
12. Shall not utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended at or across any city street, alley, or sidewalk except in a safe manner.

(Ord. 963. Passed 5-6-13, Ord. 988. Passed 1-21-14)

**865.09            PARKING BEYOND LIMITS ALLOWED BY CITY ORDINANCE AND ORDER.**

Any Mobile Food Vending Unit with a valid Mobile Food Vending License may park in a city-controlled parking space for durations as authorized by the permit; and such Mobile Food Vending Unit shall not be restricted to the hours where parking would otherwise be allowed in the particular parking space. Provided, however, that no Mobile Food Vending Unit shall park in a city-controlled parking space if parking is prohibited altogether. Any Mobile Food Vending Unit parked in a metered parking space with a valid Mobile Food Vending License shall activate the meter at all times while parked by depositing the appropriate sum of money into the parking meter. (Ord. 963. Passed 5-6-13)

**865.10            IMPOUNDMENT.**

Any equipment associated with food vending that are not in compliance with this Chapter and left on public property may be impounded at the owner's expense. (Ord. 963. Passed 5-6-13)

**865.11            OTHER PERMITS.**

A permit obtained under this Chapter shall not relieve any vendor of the responsibility for obtaining any other permit, or authorization required by any other ordinance, statute or administrative rule. (Ord. 963. Passed 5-6-13)

**865.12            REVOCATION**

The City Clerk shall revoke the permit of any vendor engaged in Mobile Food Vending who ceases to meet any requirement of this Chapter or violates any other federal, state or local regulation, makes a false statement on their application, or conducts activity in a manner that is adverse to the protection of the public health, safety and welfare.

Immediately upon such revocation, the City Clerk shall provide written notice to the permit holder by certified mail to their place of business or residence as indicated on the application. Immediately upon such revocation, the permit shall become null and void. (Ord. 963. Passed 5-6-13)

**865.13 COMPLAINTS; APPEALS.**

If a written complaint is filed with the City Clerk alleging a Food Vendor has violated the provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made as to the truth of the complaint. The vendor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified. If a permit is denied or revoked by the City Clerk, or if a written complaint is certified pursuant to this Chapter, the applicant or holder of a permit may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of City Clerk or filing of the complaint shall be sustained and the applicant may appeal the City Manager's decision to a court of competent jurisdiction. (Ord. 963. Passed 5-6-13)

**865.14 APPEARANCE TICKETS.**

The Police Chief and sworn officers of the Police Department, or such other officials as designated by the City Manager are authorized to issue and serve appearance tickets with respect to a violation of this Chapter pursuant to Michigan law. Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements. (Ord. 963. Passed 5-6-13)

**865.15 CIVIL INFRACTION.**

A vendor who violates this Chapter is responsible for a civil infraction and subject to a fine of \$500 per day. Provided, however, that the fine for parking violations shall be those as outlined in Chapter 488 of these codified ordinances. (Ord. 963. Passed 5-6-13. Ord. 970. Passed 6-3-13)

# Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending

by admin | Apr 9, 2014 | news, Zoning | 0 comments



## Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending

Link: [Slides from the APA Conference Presentation by Rod Arroyo](#)

Recent economic and cultural trends show an explosion in the popularity of food trucks, or mobile vendors, over the past several years. According to research done by Emergent for the National Restaurant Association, the growth of mobile food trucks will soar in the next five years, generating up to \$2.7 billion in revenue nationally by 2017—up from \$650 million in 2012 (Emergent Research 2012). All across the country, cities, small towns, and suburbs are seeing food trucks popping up, some in unexpected places like office and industrial parks, where zoning ordinances typically preclude restaurants. Amplifying the push for food trucks are the twin trends of “buying local” and “food-as-entertainment” that are enhanced by programs such as *the Great Food Truck Race* on the Food Network. While ice cream trucks and job-site lunch wagons haven’t disappeared, they are increasingly being joined by gourmet trucks and trucks specializing in ethnic offerings.

All across the United States, people are exploring how mobile food vending might

standards that specifically relate to vending and the issues that may arise. The net result in many communities, whether intentionally or unintentionally, is a prohibition on mobile food vending.

### **The Pros and Cons of Mobile Food Vending**

Over the past few years, most of the economy has been struggling, and the workforce has been challenged to adapt. With laid-off workers trying to reinvent themselves and new immigrants looking for opportunities, the number of people starting new businesses is rising. Mobile food vending seems, for some, like a low-cost way to wade into the pool of business ownership. There are a number of reasons why communities may elect to sanction mobile food vending:

- ***It provides an opportunity to increase jobs and businesses.*** The cost of starting a food truck business can start at \$25,000, where a traditional bricks-mortar establishment may start at \$300,000, according to research by Intuit for the National Restaurant Association.
- ***It offers opportunities to provide food choices where zoning precludes restaurants.*** Traditional zoning codes tend to restrict the uses permitted in office and industrial districts, only allowing uses that narrowly meet the intent of those districts. Office and industrial parks, in particular, are often isolated from the rest of the community, requiring employees to make vehicular trips to retail and restaurant areas. In addition, some communities may not enjoy a variety of healthy, fresh foods, and may encourage such food vendors in certain neighborhoods by relaxing requirements. New York's green carts initiative allows additional permits to be issued over the city's defined limit to mobile food vendors that offer fresh produce in underserved neighborhoods, and Kansas City, Missouri, offers reduced permit fees for mobile food vendors in city parks that meet certain nutritional standards (Parks and Recreation Vending Policy 4.7.08).
- ***It can increase activity in struggling business districts by creating a dynamic environment where people gather around the availability of new and fresh food.*** The economy has taken a toll on businesses over the past several years. Those that are hanging on in some areas find that their neighboring buildings or businesses are vacant. Food trucks can be a way to enliven an area, generating traffic for existing businesses and possibly spinning off new business activity. The restaurant industry is evolving to meet the demands of patrons who are looking for locally grown, sustainable, healthy, and fast options for dining. When food

concerns of the community.

### **Addressing Areas of Concern Through Zoning**

Many communities are updating their codes to accommodate or regulate mobile vending. While specific approaches vary from place to place, communities interested in adding or updating regulations for mobile food vending should start by defining the uses and then consider each of the following questions:

- Where in the community should such uses be permitted?
- How long should a food truck be permitted in one location?
- Are these mobile units just for food, or can other goods be sold as well?
- Does the community want to increase activity?
- How can the zoning ordinance address upkeep and maintenance?
- When can food trucks operate?
- How are customer parking and circulation accommodated?
- How are these uses reviewed and permitted?
- What do vendors and their customers want or need?
- How is signage for the mobile unit regulated?
- How is the site lit to ensure safety?

If food trucks and similar mobile vending activities are a desirable use in a community and regulations are adopted to permit mobile vending, it is important that restrictions and regulations be narrowly tailored so that they do not have the unintended consequence of excluding the use. For example, if a food truck is required to be no closer than 300 feet from a bricks and mortar restaurant, it may effectively exclude the use in most of the downtown core.

For more information, Rod Arroyo and Jill Bahm authored a *Zoning Practice* issue on this topic for the American Planning Association (September 2013 – Vol. 30, No.9). Rod Arroyo will also be speaking on this topic on April 27, 2014 at the National Planning Conference in Atlanta, Georgia.



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# ZONING PRACTICE

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## PRACTICE FOOD TRUCKS



# Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending

By Rodney Arroyo, AICP, and Jill Bahm, AICP

Recent economic and cultural trends show an explosion in the popularity of food trucks, or mobile vendors, over the past several years.



Jill Bahm/Clearzone

➔ One of the hallmarks of the current food truck boom is an increased focus on “in-truck” preparation over preparation at a central commissary.

According to research done by Emergent for the National Restaurant Association, the growth of mobile food trucks will soar in the next five years, generating up to \$2.7 billion in revenue nationally by 2017—up from \$650 million in 2012 (Emergent Research 2012). All across the country, cities, small towns, and suburbs are seeing food trucks popping up, some in unexpected places like office and industrial parks, where zoning ordinances typically preclude res-

taurants. Amplifying the push for food trucks are the twin trends of “buying local” and “food as entertainment” that are enhanced by programs such as the *Great Food Truck Race* on the Food Network. While ice cream trucks and job-site lunch wagons haven’t disappeared, they are increasingly being joined by gourmet trucks and trucks specializing in ethnic offerings.

All across the United States, people are exploring how mobile food vending might

make a difference in their lives and their communities. More resources are starting to become available for potential business owners. Networks for mobile food vendors are growing; the Southern California Mobile Food Vendors Association was formed in 2010 as one of the first associations dedicated to helping vendors break down barriers to business ([www.socalmfva.com](http://www.socalmfva.com)). And this fall, Roam—a first-ever industry conference for mobile food

## ASK THE AUTHOR JOIN US ONLINE!

Go online during the month of September to participate in our “Ask the Author” forum, an interactive feature of Zoning Practice. Rodney Arroyo, AICP, and Jill Bahm, AICP, will be available to answer questions about this article. Go to the APA website at [www.planning.org](http://www.planning.org) and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The authors will reply, and Zoning Practice will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of Zoning Practice at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA Zoning Practice web pages.

### About the Authors

Rodney Arroyo, AICP, is president of Clearzoning, Inc. He holds a Master of City Planning degree from Georgia Tech and has more than 30 years’ expertise in planning and transportation. His experience includes master plans, zoning ordinances, form-based codes, corridor studies, and access management plans. Arroyo also serves as an expert witness in planning and zoning issues, is a national and state planning award winner, and serves as an adjunct professor for Wayne State University’s graduate urban planning program.

Jill Bahm, AICP, is a principal planner with Clearzoning, Inc. She holds a Master of Urban and Regional Planning degree and has worked in both the public and private sectors as a downtown development authority director, city planner, and real estate marketing professional. Bahm’s professional interests include economic development, recreation planning, historic preservation, community participation, and organizational development.

suppliers and owners—will take place in Portland, Oregon.

On the worldwide stage, the World Street Food Congress is the first of its kind to connect and open up fresh ideas and thought leadership in the massive and growing street-food culture and industry throughout the world. This 10-day street-food festival was hosted in Singapore in January 2013 and featured well-known leaders in the food industry ([www.wsfcongress.com](http://www.wsfcongress.com)).

Faced with inquiries from food vendors, many communities turn to their zoning codes, only to discover that mobile food vending isn’t really defined and may not be permitted in the way vendors might like. With the approach to regulating mobile vending varying widely in communities, it can be hard to know where to begin when considering if and how to accommodate food trucks.

### WHAT IS MOBILE FOOD VENDING?

Regulatory codes for many communities recognize transient merchants—those goods and services provided by a traveling vendor. The typical ice cream truck would be a good example of a transient merchant who is mobile most of the time, stopping only when requested for a few short minutes. Many operators of today’s food trucks or carts, however, are seeking more than a few minutes on the street, sidewalk, or parking lot, staying in place for a few hours to serve breakfast, lunch, or dinner. In fact, when they are located on private property, some food trucks may be in one location for days, weeks, or even months. It is important to make a dis-

inction between the food vendors that are more transient in nature, like an ice cream truck, and those that seek to move about less frequently. Both types of uses can offer benefits to the community, and they will each have different potential issues to regulate.

Many mobile food vendors utilize self-driven vehicles that permit easy relocation throughout the community. However, mobile food vending also includes trailers, food kiosks, and food carts. Food kiosks are temporary stands or booths that are typically intended to sell prepared foods, including ice cream, pretzels, and the like. Food kiosks may be found inside a large office building or shopping mall, but may also be secured for outside use. Some communities, like Maui County, Hawaii, allow a variety of products to be sold at a kiosk, provided certain standards are met (§30.08.030). While temporary in structure, food kiosks are often stationary with a defined location. Food carts allow the vendor to sell from outside the moveable unit and are often used to sell fresh fruits and vegetables. Typically, the food in kiosks and carts is prepared elsewhere and kept cold or hot in the unit. The city of New York encourages “green carts” that offer fresh produce in certain areas of the city and has special regulations for these uses ([www.nyc.gov/greencarts](http://www.nyc.gov/greencarts)).

In communities across the U.S., mobile food vendors are seeking permits to start these innovative businesses. They often run into roadblocks at city hall, because while many zoning ordinances include provisions for temporary

uses, most do not contain current definitions for mobile food vending nor do they include any standards that specifically relate to vending and the issues that may arise. The net result in many communities, intentional or unintentional, is a prohibition on mobile food vending.

### THE PROS AND CONS OF MOBILE FOOD VENDING

Over the past few years, most of the economy has been struggling and the workforce has been challenged to adapt. With laid-off workers trying to reinvent themselves and new immigrants looking for opportunities, the number of people starting new businesses is rising. Mobile food vending seems, for some, like a low-cost way to wade into the pool of business ownership. There are a number of reasons why communities may elect to sanction mobile food vending:

- **It provides an opportunity to increase jobs and businesses.** The cost of starting a food truck business can start at \$25,000, where a traditional bricks-and-mortar establishment may start at \$300,000, according to the National Restaurant Association (Emergent Research 2012).
- **It offers opportunities to provide food choices where zoning precludes restaurants.** Traditional zoning codes tend to restrict the uses permitted in office and industrial districts, only allowing uses that narrowly meet the intent of those districts. Office and industrial parks, in particular, are often isolated from the rest of the community, requiring employees to drive to retail and restaurant areas. In addition, some communities may not have access to variety of

healthy, fresh foods, and therefore decide to encourage such food vendors in certain neighborhoods by relaxing requirements. New York's green carts initiative allows additional permits to be issued over the city's defined limit to mobile food vendors that offer fresh produce in underserved neighborhoods, and Kansas City, Missouri, offers reduced permit fees for mobile food vendors in city parks that meet certain nutritional standards (Parks and Recreation Vending Policy 4.7.08).

- **It can increase activity in struggling business districts** by creating a dynamic environment where people gather around the availability of new and fresh food. The economy has taken a toll on businesses over the past several years. Those that are hanging on in some areas find that their neighboring buildings or businesses are vacant. Food trucks can be a way to enliven an area, generating traffic for existing businesses and possibly spinning off new business activity. The restaurant industry is evolving to meet the demands of patrons who are looking for locally grown, sustainable, healthy, and fast options for dining. When food trucks use social media to communicate about their location schedules, it can build up a certain level of excitement and anticipation that can make a positive social impact. In addition, the rising trend of "cart pods" and "food truck rallies" brings multiple mobile food vendors to one location, creating a festive atmosphere in an area for a short time.

- **They signal to other potential businesses that the community is adapting to the evolving economy and supporting entrepreneurship.** Mobile food trucks are a new way of doing business; in these early years, communities that anticipate the demand from businesses and consumers may also find that this flexibility signals receptivity to new business models.

- **They are a way for restaurateurs to test the local market for future bricks-and-mortar facilities.** Mobile food trucks offer opportunities to interact with a potential market, to test recipes and pricing, and see if the restaurant fits with the community. All across the United States there are examples of food truck businesses evolving into permanent establishments, including El Camion ("the truck") in northwest Seattle that has recently opened a restaurant and bar in the Ballard neighborhood after several years of experience with its two mobile food units. Torchy's Tacos in Austin, Texas, started with a food truck and now has eight bricks-and-mortar restaurants in Austin, Dallas, Fort Worth, and Hous-

ton—and two more opening this year. The Lunch Room in Ann Arbor, Michigan, plans to open its bricks-and-mortar location soon, using social media to solicit fans of its existing "Mark's Carts" to become investors in the restaurant.

Along with these potential benefits can come community impacts and possible conflicts. Some of the challenges associated with

went through an extensive research and public input process, surveying their local chamber of commerce and meeting with prospective mobile food vendors, residents groups, and restaurant owners. Their resulting ordinance language responds to the needs and concerns of the community (Longmont 2011).

#### ADDRESSING AREAS OF CONCERN THROUGH ZONING

Many communities are updating their codes to accommodate or regulate mobile vending. In June 2012 Grand Rapids, Michigan, included the following statement of intent in a new set of mobile food vending provisions:

Employment and small business growth in the city can occur while providing a broad range of food choices to the public through careful allowances for temporary concession sales. The provisions of this section are intended to prevent predatory practices on bricks-and-mortar restaurants while allowing for new food vending opportunities that can add vitality to vacant parking lots and underutilized sites . . . (§5.9.32.K).

Other cities, including Phoenix, Arizona (§624.D.87); Chapel Hill, North Carolina (§§10-66–74); and Fort Worth, Texas (§5.406)—just to name a few—adopted regulations in 2012 to allow mobile vending or food trucks. Chapel Hill's

provisions note that allowing food trucks will "promote diversification of the town's economy and employment opportunities and support the incubation and growth of entrepreneurial/start-up businesses" but also that food trucks pose "unique regulation challenges."

While specific approaches vary from place to place, communities interested in adding or updating regulations for mobile food vending should start by defining the uses and then consider each of the following questions:

- Where in the community should such uses be permitted?
- How long should a food truck be permitted to stay in one location?



Russ Herschler

- ➔ Food truck gatherings are increasingly common in communities with extensive food truck offerings.

mobile food trucks might include problems with maintenance, trash, parking, noise, and vehicular and pedestrian circulation. In addition, some restaurateurs may be threatened by this new competition and try to prevent mobile food vending. Food trucks also have their own operational challenges, including dealing with unpredictable weather and maintaining an appropriate inventory despite limited storage.

The best way to understand and manage the pros and cons of food trucks in individual communities is to solicit public input and dialogue about the needs and wants of the community. For example, Longmont, Colorado,

- Are these mobile units just for food sales, or can other goods be sold as well?
- Does the community want to increase activity?
- How can the zoning ordinance address upkeep and maintenance?
- When can food trucks operate?
- How are visitor parking and circulation accommodated?
- How are these uses reviewed and permitted?
- What do vendors and their customers want or need?
- How is signage for the mobile unit regulated?
- How is the site lit to ensure safety?

### Location

It is common to allow mobile food vending in commercial districts, but some communities add industrial districts or specify mixed use districts. Start with the community's comprehensive plan—is there a need or desire to increase activities in specific parts of the community? Are there concerns about the impact of single-purpose districts (especially office and industrial) on connectivity, traffic congestion, and business

In consideration for existing facilities, some communities decide that there should be a minimum distance between mobile units and bricks-and-mortar restaurants. Some communities try to limit the impact on adjacent residential uses through a distance requirement or by restrictions on hours of operation. Planners should test these locational restrictions to ensure that realistic business opportunities exist. El Paso, Texas, repealed its locational requirement of 1,000 feet from bricks-and-mortar establishments following a 2011 lawsuit to provide sufficient opportunities for mobile food vendors (Berk and Leib 2012). Attorneys Robert Frommer and Bert Gall argue that separation from other establishments is not necessary and that food truck regulations should be narrowly tailored to legitimate health, safety, and welfare concerns, not regulate competition (2012).

The American Heart Association has also looked at location issues related to mobile food vending. They report that several communities across the country prohibit mobile food vending within a certain distance of schools (or

community and often is related to where mobile food vending is permitted. Some communities allow food trucks on public property but prohibit overnight parking. Where on-street parking is at a premium, communities may consider allowing food trucks to utilize public parking spaces for the same duration as other parked vehicles. Chicago requires food trucks to follow posted meter time restrictions, with no more than two hours in one location. In addition, the city also limits mobile food vending to two hours on private property (§4-8).

In contrast, some communities allow food trucks on private property for up to 30 days or more at one location. For example, Grand Rapids allows concession sales for up to 200 consecutive days over 12 calendar months (§5.9.32.K.6).

Regulations like this may impact vendors in terms of the types of food that can be sold and the manner in which they are prepared, especially when preparation is done on-site. Communities may wish to consider whether the allowed duration is reasonable for food vendors as well as adjacent property owners.



➡ This food truck rally in Royal Oak, Michigan, illustrates how a gathering of food trucks can activate an otherwise underutilized space.

retention and recruitment? Are there any areas in the community where the population is underserved by food choices? Planners can take these concerns to the community and invite residents and business owners to share their thoughts on where mobile food vending might be appropriate and desirable.

Some communities make a distinction between vending on public property, which often requires a license but is not regulated by zoning, and private property, which often requires a temporary use permit and is regulated by the zoning ordinance. When permitted on private property, zoning standards should require evidence of property owner approval.

at school release times) to limit the sometimes nutritionally challenged food choices available (2012). Woodland, California, prohibits mobile food vending within 300 feet of a public or private school, but will allow them on school property when approved by the school (§14-15). In a different twist, the Minneapolis Public School System introduced a food truck program this year to offer free nutritious meals to students during the summer months at four different sites in Minneapolis (Martinson 2013).

### Duration

The length of time food trucks are permitted to stay in one place varies widely by commu-

### Goods Available for Sale

Some communities, like College Station, Texas, are very specific that the goods sold from mobile vending to be food related (§4-20). This is often borne of a desire to start with mobile vending on a limited basis to gauge its impact. As mobile food trucks become more prevalent, surely people will explore the ideas of starting other types of businesses in this format. Communities may wish to consider the questions raised earlier about location and assess whether or not it makes sense to allow other goods in addition to food to be sold in designated areas. For example, Ferndale, Michigan, allows a variety of wares to be sold by a mobile

vendor, including apparel, jewelry, household goods, and furnishings (§§7-73–82). That might be just the place for book publisher Penguin Group (USA) to take its recently introduced first mobile bookstore, which aims to make books accessible where big box retailers aren't located (Edsall 2013).

### Number of Units in One Location

Some communities that are getting on board with mobile food vending have started allowing them to congregate for certain events and activities. For example, Royal Oak, Michigan, started a food truck “rally” at their indoor farmers market during colder months. It is a good way to utilize the facility as well as provide entertaining food options for city residents. It has now become a great family event every month year-round, with musical entertainment, bouncy houses, and face painting. The city limits the rally to no more than 10 different trucks with a variety of cuisine for the whole family.

units to function on private property as a single business. To address potential negative impacts, each mobile food court must have its own on-site manager, who is responsible for the maintenance of the area (§5.406).

### Trash

The type of standards for trash removal and upkeep will vary depending on the location and duration of the vending. Most communities require waste receptacles for every mobile food vending unit and some further require waste to be removed from a site daily. Keep in mind that where communities allow seating along with the mobile food unit, people will generate more trash on-site than in situations where there is no seating provided and people take their food (and trash) to go.

### Hours of Operation

Some communities limit hours of operation to around lunchtime (e.g., 10:30 a.m. until 3:30

trucks on private property, communities typically require the vendor to ensure that there is sufficient parking available for its use and any other uses on the site, including the space taken up by the unit itself. Some cities allow public parking areas to be utilized for food trucks, and may even allow metered parking spaces to be used provided the related meter fees are paid. For example, Minneapolis allows a mobile vendor to park at no more than two metered spaces, as long as they are not short-term spaces and are not located within 100 feet of an existing restaurant or sidewalk cafe—unless the restaurant owner gives consent (§188.485.c.7).

### Licenses and Permits

Most communities require permits or licenses regardless of whether the trucks operate on public or private property. It is also common for the community to reference compliance with other codes, particularly state or local health codes. These other codes can impact how trucks operate. For example, California's

Health and Safety Code requires trucks to have hand-washing stations if food is prepared in the truck, but does not require them on trucks selling only prepackaged foods like frozen desserts (§114311).

Some communities cap the number of licenses available for food trucks to limit their impact, but many others do not. Grand Rapids

requires a temporary use permit, subject to planning commission approval, and gives standards for consideration (§5.9.32.K.18), including an assessment asking “[w]ill the proposed stand, trailer, wagon or vehicle contribute to the general aesthetic of the business district and include high quality materials and finishes?”

### Site Amenities

Some communities specify that no tables or chairs are permitted, or if they are, then sanitary facilities are also required. There may be flexibility in the permitted arrangements for such facilities (for example, having permission to use such facilities within a reasonable distance of the mobile unit). Frisco, Texas, prohibits connections to po-



Site amenities like tables and chairs are often easier to accommodate on private property than in a public right-of-way.

According to Market Master Shelly Mazur, “It’s nice to be able to offer a family-friendly event in a climate-controlled building with renovated bathrooms and seating.”

On the other hand, in its 2010 ordinance, the city of Zillah, Washington, banned mobile food vending altogether, declaring it a “nuisance,” and finding that “when mobile vendors congregate in the same area, the heightened intensity of use negatively impacts the surrounding area, particularly by increased trash” (§8.32). Fort Worth tackled this issue head-on, defining a group of food trucks as a “mobile food court” when two or more mobile vending units congregate. They allow these

p.m.), and others allow sales from early in the morning to late in the evening (e.g., 7 a.m. until 10 p.m.). Some communities place no time limits on these operations in the zoning regulations. Again, consider where these units will be permitted and the potential conflicts with adjacent uses.

### Parking and Circulation

Given the mobility of these vendors, they by necessity are typically located in parking areas. Whether in public spaces or a private parking lot, it is important to ensure sufficient parking for existing uses to prevent an undue burden on bricks-and-mortar establishments. For food

## REFERENCES

- ◆ American Heart Association. 2012. “Mobile Food Vending near Schools Policy Statement.” Available at [www.heart.org/idc/groups/heart-public/@wcm/@adv/documents/downloadable/ucm\\_446658.pdf](http://www.heart.org/idc/groups/heart-public/@wcm/@adv/documents/downloadable/ucm_446658.pdf).
- ◆ Berk, Keith, and Alan Leib. 2012. “Keeping Current: UCC—Food Truck Regulations Drive Controversy.” *Business Law Today*, May. Available at <http://apps.americanbar.org/buslaw/blt/content/2012/05/keepingcurrent.pdf>.
- ◆ Edsall, Larry. 2013. “Food Trucks Inspire Mobile Bookstore,” *Detroit News*, July 11. Available at [www.detroitnews.com/article/20130711/AUTO03/307110040/1121/aut006/Food-trucks-inspire-mobile-bookstore](http://www.detroitnews.com/article/20130711/AUTO03/307110040/1121/aut006/Food-trucks-inspire-mobile-bookstore).
- ◆ Frommer, Robert, and Bert Gall. 2012. *Food Truck Freedom*. Washington, D.C.: Institute for Justice. Available at [www.ij.org/images/pdf\\_folder/economic\\_liberty/vending/foodtruckfreedom.pdf](http://www.ij.org/images/pdf_folder/economic_liberty/vending/foodtruckfreedom.pdf).
- ◆ Emergent Research. 2012. “Food Trucks Motor into the Mainstream.” Intuit, December. Available at <http://network.intuit.com/wp-content/uploads/2012/12/Intuit-Food-Trucks-Report.pdf>.
- ◆ Longmont (Colorado), City of. 2011. *Mobile Food Vendors Longmont Municipal Code Amendment*. Planning & Zoning Commission Communication, June 20, 2011. Available at [www.ci.longmont.co.us/planning/pz/agendas/2011/documents/final\\_mobilefoodvendors.pdf](http://www.ci.longmont.co.us/planning/pz/agendas/2011/documents/final_mobilefoodvendors.pdf).
- ◆ Martinson, Gabrielle. 2013. “In its First Summer, District’s Food Truck is a Success.” *The Journal*, July 16. Available at [www.journalmpls.com/news-feed/in-its-first-summer-districts-food-truck-is-a-success](http://www.journalmpls.com/news-feed/in-its-first-summer-districts-food-truck-is-a-success).

table water, requiring mobile food vendors to store their water in an internal tank. The city also requires vendors to be located within 50 feet of an entrance of a primary building, and drive-through service is expressly prohibited (§3.02.01.A(20)). King County, Washington, requires that all mobile food vending in the county be located within 200 feet of a usable restroom (§5.34).

### Signage

Some communities use their existing sign regulations, but others tailor standards for mobile units. In Michigan, both Grand Blanc Township (§7.4.9.F) and Kalamazoo (§§25-63–68) allow one sign on the mobile vending unit itself, but do not allow any other signage. This is fairly common. In many cases, the truck itself essentially functions as one big sign with colorful graphics. Additionally, many mobile food vendors now use social media to get out the word regarding the time and place they will set up shop, potentially reducing the need for additional signage beyond that on the unit itself.

### Lighting

Lighting is not as commonly addressed as other issues, especially if a mobile food vending unit is located in an existing developed area, but it is likely presumed that other applicable lighting requirements appropriate to the location are to be followed. Consider adjacent uses and the impact of light trespass and glare. For example, Grand Blanc Township requires mobile food vending units to be lit with available site lighting. No additional exterior lighting is allowed unless permitted by the zoning board of appeals upon finding that proposed exterior lighting mounted to the mobile vending unit will not spill over on to adjacent residential uses as measured at the property line (§7.4.9.F.10).

### TESTING, FOLLOW-UP, AND ENFORCEMENT

One of the nice things about mobile food vending is that it is really easy for a community to put a toe in the water and test the impact of regulations on mobile food vendors, other community businesses, and the public, and to adjust the regulations

as appropriate. The Metropolitan Government of Nashville-Davidson County, Tennessee, initiated a test phase beginning April 2012 that will provide evaluative data for a successful mobile food vendor program. The program will initially be operated under a temporary permit issued by the Metro Public Works Permit Office for two specified zones, the downtown core and outside of it. Oakland, California, has a pilot program for “Food Vending Group Sites,” defined as “the stationary operation of three (3) or more ‘mobile food vendors’ clustered together on a single private property site, public property site, or within a specific section of public right-of-way” (§5.51).

Before embarking on extensive zoning rewrites, review the suggested considerations with the community to anticipate and plan for appropriate ways to incorporate this use in a reasonable way. Mobile food vending is on the rise all over the country, from urban sites to the suburbs. When regulated appropriately, mobile food vending can bring real benefits to a community, including jobs, new businesses, fresh food, and vitality.

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# HOW DOES YOUR COMMUNITY REGULATE FOOD TRUCKS AND OTHER MOBILE VENDORS?

# 9

# Regulating Food Trucks

*The Planning Advisory Service (PAS) researchers are pleased to provide you with information from our world-class planning library. This packet represents a typical collection of documents PAS provides in response to research inquiries from our subscribers. For more information about PAS visit [www.planning.org/pas](http://www.planning.org/pas).*



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**Articles and Reports** *(Packet contains links to 2 additional reports)*

- Arroyo, Rodney and Jill Bahm. 2013. "Food Truck Feeding Frenzy: Making Sense of Mobile Food Vending." *Zoning Practice*, September.

**Municipal Guides** *(Packet contains 3 additional municipal guides)*

- Denver (Colorado), City and County of. 2012. "Food Truck Guide: A Multi-Department Guide."
- Georgetown (Texas), City of, Planning Department. 2013. "Customer Bulletin # 104 – Mobile Food Establishments." May 17.

**Staff Reports** *(Packet contains 2 additional staff reports)*

- San Diego (California), City of. 2014. "Amendments to the Municipal Code and Local Coastal Program Related to Food Trucks." Report to the Planning Commission, January 9.

**Zoning Standards** *(Packet includes 12 additional zoning examples)*

- Aurora (Colorado), City of. 2015. *Ordinance No. 2015-30: A Bill For An Ordinance to Amend Section 146-1254 of the City Code of the City of Aurora, Colorado, Relating to Mobile Food Trucks.*
- Fayetteville (Arkansas), City of. 2015. *Code of Ordinances*. Title XV, Unified Development Code; Chapter 178, Outdoor Vendors; Section 178.05, Food Truck and Food Trailer Limited Time Permits.
- St. Petersburg (Florida), City of. 2015. *Code of Ordinances*. Chapter 16, Land Development Regulations; Section 16.50.440, Vending, Mobile Food Trucks.

**Licensing Standards** *(Packet includes 11 additional licensing examples)*

- Austin (Texas), City of. 2015. *Code of Ordinances*. Title 10, Public Health Services and Sanitation; Chapter 10-3, Food and Food Handlers; Article 1, General Provisions; Section 10-3-1, Definitions. Article 4, Mobile Food Establishments.
- Evanston (Illinois), City of. 2015. *Code of Ordinances*. Title 8, Health and Sanitation; Chapter 23, Mobile Food Vehicle Vendors.
- Huntsville (Alabama), City of. 2015. *Code of Ordinances*. Chapter 18, Peddlers and Solicitors; Article II, Central City Area; Section 18-36, Sidewalk Cafes, Vendors, and Mobile Food Vendors.
- Portland (Maine), City of. 2015. *Code of Ordinances*. Chapter 19, Peddlers and Solicitors; Section 19-23, Rules Promulgated by City Manager. Also, "City of Portland Food Truck Rules and Regulations."

**City of Mason**  
**Mobile Food Vendor/Food Truck Ordinance**  
**Input from City Boards and Commissions**

Downtown Development Authority, February 3, 2016

Historic District Commission, January 25, 2016

Planning Commission, February 9, 2016

Traffic Commission, January 27, 2016

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**DESIGNATED SPACE:**

- Limit/regulate tables and chairs on the sidewalk
- Require ancillary equipment (propane tanks, trash can, tables, chairs, etc.) be removed when the truck is not on site
- Space designated by square footage
- Cluster on private property

**FUEL:**

- Propane regulations

**CITY UTILITIES:**

- Set fee for use of City utilities (electric, water, etc.)

**FEES:**

- Explore option to require payment in lieu of taxes
- Fees should be minimal, but enough to cover costs
- No double dipping on fees when associated with a festival

**GENERAL**

- Regulations should be minimal – should not onerous/restrict commerce
- Would like to see other ordinance examples
- Food safety – barrier to entry is lower than brick and mortar restaurants, should require proof of food service license
- Reach out to Ingham County Health Department
- What will be the impact to adjacent businesses within the DDA

**LICENSE:**

- Limit the total number of permits/licenses issues to six or less

**LOCATION:**

***On-street parking***

- Consider impact of obstructing diagonal parking areas
- Disburse trucks fairly - allowing more than one in public ROW
- Balance impact of on-street parking interfering with potential business at nearby brick and mortar businesses

- Set weight limits on streets and/or public parking areas - concern for asphalt
- Down town parking spaces not a permitted location
- Do not permit in residential areas

***Parks***

- Will this apply to parks? If not, how will they be treated?
- Permitted location. Location to be determined by Parks Department.

***Parking lots***

- Approved locations (municipal or private).
- Would the designated space used by the food truck affect the businesses required parking spaces set by ordinance?

***General***

- Require adjacent property sign-off/approval (Non-compete options)
- Where are the desirable locations according to food truck owners

**HOURS OF OPERATION:**

- Set noise standards for evening hours (generator noise concerns)
- Require cleanliness of area (example - ketchup on sidewalk,-etc.)
- Limit the allowances for set-up and tear down on either end of their permitted time
- Street sweeping and snow removal Set winter / summer hours

**PILOT PROGRAM:**

- Test ordinance for one year

**QUALITY OF LIFE:**

- Noise (generator)
- Odor
- Cleanliness

**City of Mason**  
**Food Truck Ordinance – Public Input Forum**

**February 8, 2016**

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On February 8, 2016, the City of Mason conducted a public forum where members of the public were invited to share thoughts and discuss the potential of regulating mobile food vendors (food trucks). Approximately 17 members of the public, including staff and elected and appointed officials, participated in the forum. The following is a list of the issues and concerns raised during the forum:

- Allow in the DDA – could be an attraction
- Use the courthouse square as a test area
- Do not permit seating
- Nothing should come off the truck
- No mobile restrooms
- Patrons of food trucks may end up using nearby establishment's restrooms
- Issue seems to be where to permit to park on public property
- Locations to allow:
  - City hall
  - Parks – observe park rules
  - Rotate locations
  - Special events
- Limit the “density” (number of trucks) in a given area
- Limit accessories like tables, chairs, etc.
- Fees should include/cover costs incurred by the City (clean up & set up)
- Permit near courthouse square and available parking
- Require permission from nearby businesses
- Fees should not be too high, but within reason
- Permit near existing utilities to prevent noisy generators