

**CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION**

Meeting Date: July 18, 2016

Item: Ordinance Amendment – Amend Title 3 (Business and Licensing), Chapter 7 (Solicitors and Transient Merchants) and Title 9 (Zoning), Chapter 16 (Temporary Use Permits), to modify temporary use and transient merchant regulations and establish new regulations related to mobile vendors.

Request Action: Approval of an amendment to the City Code

Case Advisor: Kevin Wilde, Sign and Zoning Administrator *fw*

Applicant's Request: In an effort to respond to the increasing number of requests by business owners and mobile food vendors to be allowed to have food and meals available at locations and times that may typically not be served by the standard restaurants in West Des Moines, the City is initiating an amendment to several provisions in the Code.

Currently, temporary or mobile vendors of any kind are regulated under either Title 3, *Business and Licensing, Chapter 7, Solicitors and Transient Merchants*, or Title 9, *Zoning, Chapter 16, Temporary Use Permits*. Special Use Permits are issued by the Parks Department and City Clerk's office for events on public property. Most temporary events on private property are regulated by the zoning ordinance as either short-term or long-term. Short-term events are limited to four, 4-day permits, per calendar year, per business location; while long-term temporary food and beverage permits allows for these types of uses to operate from May 1st to September 30th at a single location. Both permits are issued for a specific location which does not allow mobile vendors to switch locations across the City as they desire. Additionally, there are conflicting and obsolete regulations that need to be clarified within the two code sections.

City Council Subcommittee: When the topic of whether the current food truck regulations were adequate to address the perceived needs, staff sent an inquiry to the Mayor and City Council members to gauge their interest in opening up more opportunities for food trucks in West Des Moines. There were some concerns expressed, but the all were supportive of an amendment to allow food trucks greater latitudes than what the current regulations allowed. The concerns expressed included serving of alcohol, don't want to become permanent food stands, consider effect on brick and mortar restaurants, public health and safety, allow but not on every corner, and ensure a reasonable permitting process.

On a related note since this amendment involves Temporary Use Permits, at the June 27, 2016, Development and Planning City Council Subcommittee meeting, staff raised the question of modifying the short term temporary use permit regulations to allow more events per location. The Subcommittee wanted to keep the current maximum 16-days, but supported modifying the regulations from four, 4-day permits to instead allow eight, 2-day permits per year, per location. This discussion was not specific to the mobile food vendors, but would open more opportunities for food truck events. This change has also been included in the proposed ordinance amendment.

At the July 11, 2016, Development and Planning City Council Subcommittee meeting, the intended amendment to the code to address the mobile vendors was presented as an informational item only.

Staff Review and Comment: As a part of the preparation of the proposed ordinance changes, staff has reviewed a number of state and city regulations for mobile food vendors and has been monitoring the discussions within the city of Des Moines on proposed changes to their rules. The intent of the proposed changes are to establish standards that mobile food vendors would be expected to follow, but to allow for the flexibility of locations where they could locate. Staff specifically requests direction on the appropriate licensing and application fee amounts, as well as direction on how many food trucks should be allowed on a given property at a given time.

Included as attachment B is communication between staff and Nick Kuhn, President of The Legion of Food, an association of local food truck owners, regarding the proposed ordinance and regulation of mobile food units.

Permitting Process:

Unless reviewed and approved under a Special Use Permit issued by either the Park's Department, if occurring within a city park, or the City Clerk's Office, if occurring on other public property such as the city hall campus and public streets (like VJ Farmer's Market and other events), mobile food vendors would be allowed on non-residential private properties with the consent of the property owner and the issuance of an annual licensing of the mobile food unit itself. Events on private property are currently regulated through the Long-term or Short-term Temporary Use Permit process. With the new process, mobile food vendors would be inspected by the Fire Department if cooking within the vehicle and obtain an annual license through the City Clerk's Office instead of applying for a Temporary Use Permit.

Solicitors and Transient Merchants: Solicitors are generally entities that use door to door sales or may be soliciting donations along public roadways. Regulations related to soliciting were recently reviewed by the Legal Department and amended in 2013, therefore staff has not made significant changes to these regulations. However, the transient merchant provisions included in Title 3: Business and Licensing related to transient merchants are redundant with much of that which is already included in Title 9, Chapter 16: Temporary use Permits so the regulations of transient merchants has been moved to be part of Title 9: Zoning. As indicated in the following bullet, language is proposed to be added to Chapter 3: Business and Licensing to specifically address Mobile Food Vendors.

Mobile Food Units: A section and regulations specific to mobile food units (food trucks and push carts) is proposed for inclusion in Chapter 3: Business and Licensing. The main components of the ordinance provide for the following:

- Annual license required (valid April 15th to midnight April 14th).
- Fire department inspection for units with cooking facilities (State license class III and IV).
- Must comply with state health inspection rules and provide a copy of the state inspection certificate.
- Mobile food units must be on private property unless part of an approved event (special use permit review).
- Music and sound making devices as part of a mobile food unit are not allowed, unless reviewed as an approved event.
- Vendor must have written approval of property owner in the unit at all times the unit is on a property.
- Location:
 - Only allowed in non-residential areas unless otherwise approved as part of a Special Use Permit issued by the City for an event occurring in a park or on public property.
 - Only one food unit per site, except as part of approved event. Units must be located on separate properties and must maintain a minimum of 50 feet separation. *(Because individual sites will not be reviewed every time trucks set-up on a site, this is recommended to ensure that appropriate circulation for emergency services is maintained and that pedestrian safety is not compromised. Staff has been made aware that multiple vendors desire to locate in close proximity to each other to allow patrons to evaluate the menus of each truck and feel that the change to allow 8 short term temporary use permits annually, which includes a staff review, will allow for a limited number of events, but not on a daily or weekly basis. Staff is looking for direction on this matter.)*
 - Must be a minimum of 100 feet from a permanent restaurant or business serving food and beverages unless they have written consent from the owner of the food service establishment.
- Hours of operation:
 - If within 300 feet of a residential use, may only operate between 7:00 am and 10:30 pm.
 - More than 300 feet from residential, no defined start and stop times.
 - Mobile food units can only be on one site a maximum of 5 hours per day and for 4 consecutive days.
- No alcohol may be sold from a mobile food unit.
- Unattended mobile food units are prohibited and must be removed from the site when not in operation. This does not apply to trucks associated with a brick and mortar restaurant parked to the rear of the property and generally out-of-sight to the general public.

Those items that are covered in the State regulations including water tanks, waste water disposal, refrigeration and cooking facilities, sanitary requirements, restroom facilities (written agreement with neighboring business is required), personnel safety certification and hygiene are not restated within the proposed ordinance, but rather the ordinance requires compliance with all other local, county, and state requirements for health inspections, licensing, safety, and fire code requirements.

Temporary Use Permits (TUP): There are a number of changes to the Temporary Use Permit section of the Zoning Ordinance. Some of the changes are to clean up items that are obsolete or not being utilized to regulate certain uses, and others are to clarify food vending uses that would still fall under this section. The proposed ordinance differentiates those food vendors that are mobile (mobile food units) and those that are not (sheds or kiosks). The temporary use regulations would still apply to the non-mobile uses, while the proposed additions to Chapter 3 would regulate mobile food vendors. As it relates to the Temporary use Permit process, the proposed ordinance amendments addresses the following:

- Expands the allowed time frame for the non-mobile uses from the current May 1-Sept 30, to April 1-October 31, each year.
- Changes allowable short-term permits from the current four, 4-day events to eight, 2-day events.
- Eliminate some of the standards that would be covered by state requirements.
- Eliminates a number of specific uses identified in the code that have not been used or for which other methods of review and approval have been utilized.

Fees: Staff is looking for Council direction on the appropriate licensing, fire inspection, and permit application fee amounts for mobile food units. There will be staff time associated with inspecting the units, processing the permits, issuance of the license, and follow-up and/or enforcement. The specific licensing and permit application fees the City Council determines to be appropriate, will be included in the second reading of the ordinance. For the Commission and Council's information and consideration, the following are the current fees associated with Temporary Use, Special Use, Solicitor, and Transient Merchant Permits/Licenses:

- Long-term TUP require a \$280.00 annual fee, plus a \$750.00 deposit that can be refunded at the end of the season after everything associated with the temporary use is removed. Currently, proof of \$1,000,000 insurance is required but proposed to be eliminated.
- Short-term TUPs are \$25.50/premix possible eight permits in a calendar year resulting in maximum \$204.00 in short-term TUP fees. Staff is not proposing a change to either the long-term or short-term fees.
- Special Use Permits:
 - Events not requiring Council action = \$225.00
 - Events requiring Council action = \$325.00
 - Proof of liability insurance coverage of not less than \$500,000/person and accident coverage of not less than \$1,000,000/person.
- Solicitor Fees:
 - Application Fee = \$100.00
 - 30-day Permit = \$50.00
 - 90-day Permit = 100.00
 - Surety Bond in the amount of \$1,000.00
- Transient Merchant Fees (staff does not know the last time, if ever in which the City issued a Transient Merchant Permit):
 - License Application Fee = \$100.00
 - 1-day License = \$20.00
 - 7-day License = \$100.00

Des Moines charges a \$550.00 fee for the food truck vendor and have proposed a \$100.00 fee for the property owner (to cover inspection of the site by staff). In the downtown area, they allow vendors to set-up in on street parking stalls but require the vendor to lease a parking meter cover (which DM staff indicated at one meeting to be over \$1000.00 per year). All units that have cooking facilities also have a \$100.00 fire inspection fee.

Existing TUP's for Food and Beverage Facilities: Since there are a number of long-term Temporary Use Permits that have already been issued this year for mobile food vendors that would expire on September 30th, staff would propose that existing food vendors/businesses that have been issued TUP for this season be extended until the end of 2016 and that any licenses issued under the new regulations would cover the remainder of this year and be valid until the renewal date of April 15, 2017.

Noticing Information: On July 8, 2016, notice of the July 18, 2016, Plan and Zoning Commission and the July 25, 2016 public hearing for this project was published in the *Des Moines Register*. No mail notices are required of City Code amendments.

Staff Recommendation and Conditions of Approval: Staff recommends the Plan & Zoning Commission provide guidance on the appropriate fee amount for mobile food vendors permit and licensing and number of trucks allowed on a single site and approve a resolution recommending to the City Council approval of the ordinance amendment to define and establish regulations related to event venues.

Attachments:

Attachment A – Plan and Zoning Commission Resolution
Exhibit A – Proposed Ordinance

Attachment B – Communication with Nick Kuhn, President of The Legion of Food

RESOLUTION NO. PZC-

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN ORDINANCE TO AMEND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 3: BUSINESS AND LICENSING, CHAPTER 7: SOLICITORS AND TRANSIENT MERCHANTS, AND TITLE 9: ZONING, CHAPTER 16: TEMPORARY USE PERMITS, TO ESTABLISH REGULATIONS FOR MOBILE VENDORS.

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, staff requests an amendment to amend Title 3, *Business and Licensing*, Chapter 7, *Solicitors and Transient Merchants*, and Title 9, *Zoning*, Chapter 16, *Temporary Use Permits*, to modify temporary use and transient merchant regulations and establish new regulations related to mobile vendors, specifically mobile food units

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, this Commission held a duly-noticed hearing to consider the application for an amendment to ordinance;

WHEREAS, this Commission did consider the request for an amendment to ordinance;

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings for approval in the staff report or as amended orally at the Plan and Zoning Commission public hearing are adopted.

SECTION 2. The AMENDMENT TO ORDINANCE (AO-003135-2016) to modify temporary use and transient merchant regulations and establish new regulations related to mobile vendors, specifically mobile food units as stated in the staff report or as amended in the attached Exhibit A is recommended to the City Council for approval.

PASSED AND ADOPTED on July 18, 2016.

Craig Erickson, Chair
Plan and Zoning Commission

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on July 18, 2016, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

Recording Secretary

Prepared by: KWilde, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 515-222-3620

When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 3: BUSINESS AND LICENSING, CHAPTER 7: SOLICITORS AND TRANSIENT MERCHANTS, AND TITLE 9: ZONING, CHAPTER 16: TEMPORARY USE PERMITS, TO MODIFY TEMPORARY USE AND TRANSIENT MERCHANT REGULATIONS AND ESTABLISH NEW REGULATIONS RELATED TO MOBILE VENDORS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

Section 1. Amendment. Title 3: *Business and Licensing*, Chapter 7: *Solicitors and Transient Merchants*, is hereby repealed in its entirety and replaced with the following as the new Chapter 7:

CHAPTER 7: SOLICITORS AND MOBILE FOOD UNITS

3-7-1: PURPOSE

3-7-2: DEFINITIONS

3-7-3: SOLICITOR REGULATIONS AND REQUIREMENTS

3-7-4: MOBILE FOOD UNITS

3-7-5: UNLAWFUL ACTS

3-7-6: SUSPENSION OR REVOCATION OF LICENSE

3-7-7: PENALTY

3-7-1: PURPOSE:

The purpose of this chapter is to protect residents against fraud, protect them from intrusion into the privacy of their homes, and to ensure the safety of the residents by licensing and regulating solicitors and mobile food units.

3-7-2: DEFINITIONS:

APPROVED EVENT: A larger event, such as a farmers market, music festival, or similar activity that has been approved by the city through a special use permit (typically on public property), a temporary use permit (on private property) or a block party permit. An approved event would also include events within the city park with the approval of the Parks Board or their designee.

CATERED EVENT: Any event where a business or entity has requested the mobile food unit to provide food for a targeted audience and which the food is served to the customers within a building or structure and not directly from the mobile food unit, or where the business or entity requesting the service is paying for the food in a single lump sum payment rather than individual patrons paying for their food themselves.

MOBILE FOOD UNIT: Any type of annually licensed food establishment that is a readily movable vehicle (on wheels), that is self-propelled (driven), or can be pulled or pushed to a location and used for the vending of food or beverage items to the public.

MOBILE FOOD UNIT CLASSIFICATION: The type of mobile food unit based upon the type of menu items being served and preparation and storage requirements for the defined menu items based upon the Iowa Department of Inspections and Appeals Mobile Food Unit Guide.

MOBILE FOOD VENDOR: A person engaged in the business of selling food or beverages from a mobile food unit.

PERSON: Natural persons, corporations, firms, and organizations of any description, whether acting in person or through agents, employees, or other persons.

PUSH CART: A non-self-propelled mobile food unit that is pushed or pulled by the mobile food vendor to a location and serves a limited offering of food or beverage items.

SOLICITOR: Any person who initiates or attempts to initiate personal contact with other persons at or near residences or businesses, including upon private driveways, parking lots, or public sidewalks in an apparent effort to solicit or attempt to solicit monies or orders for goods, services, subscriptions, or merchandise to be delivered immediately or at a future date.

STATE LICENSING LEVEL CLASSIFICATION: The Iowa Department of Inspections and Appeals has established four classification levels for mobile food vendors that will be referenced as a part of this chapter. There are more requirements for each of the levels but in general the levels are as follows:

Class I – Non-refrigerated vending units that serve only intact, non-potentially hazardous commercially prepackaged food and beverages. Examples include chips, crackers, cookies, soda, and sweets in manufacturers packaging.

Class II – Refrigerated or Hot vending units that serve potentially and non-potentially hazardous commercially prepackaged foods from an approved source. Examples include packaged sandwiches, ice cream bars, individually wrapped and cooked hot dogs. No cooking is allowed as part of a Class II unit.

Class III – Units that serve potentially and non-potentially hazardous packaged food and unpackaged foods with limited assembly. These units are limited to pre-cooked foods from an approved source that may be reheated on the unit. Examples include pushcart operations, packaged salads, hot dogs, shaved ice.

Class IV – Units that serve potentially and non-potentially hazardous foods that are prepared, cooked, cooled or reheated and assembled on the unit. Examples include self-contained mobile food units, food trucks and any units that are capable of preparing and producing food items from pre-cooked and/or raw products (meat, fish, poultry, plant foods and dairy products) to finished product for consumption.

TRANSIENT MERCHANT: Any person who engages in a temporary or itinerant merchandising business selling direct to the public from a temporary location or structure through a temporary association with a local property owner or business owner. The term ‘transient merchant’, does not include mobile food vendors. Transient merchants shall be regulated by the provisions of the Temporary Use Permit regulations within Title 9: Zoning, unless defined and regulated elsewhere within this code.

3-7-3: SOLICITOR REGULATIONS AND REQUIREMENTS:

Any person defined in section 3-7-2 of this chapter as a "solicitor", shall comply with the following requirements:

- A. **LICENSE REQUIRED:** No solicitor shall engage in business in the city without having first obtained a license as provided by this chapter.
- B. **LICENSE FEE:** At the time of the submittal of a license application, the applicant shall pay to the city clerk the applicable license fee in addition to the nonrefundable application fee. If after review the determination is made that the request should be denied, the license fee will be refunded.

1. The city council shall establish the amount of the licensee fee for thirty (30) day and ninety (90) day solicitor licenses by resolution.

2. Any licensee who surrenders his/her license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

C. LICENSE APPLICATION: An application for a solicitor license shall be filed with the city clerk. The application shall contain the following information:

1. Name, permanent and local address, and local phone number;

2. Date of birth and physical description;

3. Company name and address;

4. Description of merchandise;

5. Last three (3) places of business, including the complete addresses from which business was conducted;

6. Applicant's supervisor or manager and his/her local address;

7. Length of time to be covered by license;

8. A list of all convictions for criminal misdemeanor offenses (excluding traffic offenses) during the ten (10) years prior to application, and a list of all convictions for criminal felony offenses during the applicant's lifetime. The lists shall include the type of offense, the city, county, and state where the offense occurred, and the date of conviction of each offense;

9. A list of all pending criminal misdemeanor and felony charges, including the type of offense charged, and the city, county, and state where the offense allegedly occurred.

10. Applicants who reside in the state of Iowa shall provide, at the applicant's expense, an officially sealed state of Iowa division of criminal investigation (DCI) personal background check to the city, which is dated no more than thirty (30) days prior to the application. Applicants who do not reside in the state of Iowa shall provide, at the applicant's expense, an equivalent personal background check from the applicant's state of residence.

D. PHOTOGRAPHING AND FINGERPRINTING OF APPLICANT: Each applicant shall be fingerprinted and a photograph shall be taken of each applicant by the city's police department and at the applicant's expense.

E. ISSUANCE OF SOLICITOR'S LICENSE: The city clerk, upon review of said license application request with the city's development services department, the police department, and any other appropriate department or agency, shall determine whether a license will be issued to the applicant. A waiting period of not less than five (5) business days from date of application shall be in effect to provide sufficient time for the city clerk's decision making process. In making his/her decision, the city clerk shall consider the following factors:

1. The information in the application is found to be correct.

2. The required bond is paid.

3. The applicant has not been convicted of an offense involving sexual abuse and/or a crime requiring sex offender registration.

4. The applicant has not been convicted of a criminal offense involving serious injury or death to another person, kidnapping, false imprisonment, robbery, burglary, theft, fraud, forgery, identity theft, trespass, harassment, or stalking.

5. Any other relevant considerations that, in the city clerk's determination, would undermine the stated purposes of this chapter.

F. LICENSE EXEMPTIONS: The following are excluded from the application of this chapter, except such persons or entities must comply with sections 3-7-3 K and 3-7-5 of this chapter:

1. Newspaper carriers.
2. Members of local Boy Scout, Girl Scout, Camp Fire or 4-H Clubs, and Future Farmers Of America, if the sales are to benefit the parent organization in its recognized operation and programs.
3. Students representing local schools or local youth sports organizations conducting projects sponsored by organizations recognized by the schools or youth sports organizations.
4. City, county, state, or federal government officials and employees while in the performance of their official duties.
5. Representatives of any public utility lawfully doing business in the city, while acting in such capacity.

G. CHARITABLE AND NONPROFIT ORGANIZATIONS:

1. Representatives of charitable organizations exempt from federal taxation and/or nonprofit organizations shall be subject to the requirements of this chapter, except that they shall not be required to submit license fees nor provide a bond. They shall be required to submit an application and application fees under section 3-7-3 C of this chapter. In addition to this application, all such organizations shall be required to submit in writing to the city clerk the following information:

- a. Name of organization;
- b. Federal identification number;
- c. A description of the proposed activity, including use for any money solicited;
- d. Period during which activities will take place;
- e. Whether any commissions, fees, or wages are to be charged by the solicitor for his/her efforts and the amount thereof;
- f. Names and addresses of officers and directors of the organization; and
- g. Names and addresses of all people who will be soliciting or distributing in the name of the organization.

2. If the city clerk shall find that the organization qualifies for the exemption provisions and if he/she finds that all required information has been submitted in writing, he/she shall issue a license without payment of the required license fees under section 3-7-3 B of this chapter.

3. The city clerk may elect to waive the application and fee requirements for charitable and nonprofit organizations based upon the following considerations: 1) if there are many persons soliciting on behalf of the organization; 2) if the many persons soliciting on behalf of the organization are all volunteers; 3) if there is a limited duration for the organization's soliciting efforts; and 4) if there is a limited location for the organization's soliciting efforts. The city clerk shall not waive the application and fee requirements for charitable and nonprofit organizations that solicit or attempt to solicit from residences and businesses.

H. BOND: At the time of application, the applicant shall file with the city clerk a personal surety bond in the amount of one thousand dollars (\$1,000.00) conditioned that the applicant shall comply fully with all ordinances of the city and laws of the state of Iowa regulating solicitors and transient merchants, guaranteeing attendance at all scheduled hearings and court appearances, and guaranteeing to any resident of the city that all money paid as a down payment will be accounted for and applied according to the representations of the licensee. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. Said bond shall provide an expiration period not less than twelve (12) months from the date of the application for a license.

I. **DISPLAY OF LICENSE:** Upon the approval of a solicitor license, the city shall provide each solicitor with a city issued license that the solicitor must wear around his/her neck with a lanyard or upon another conspicuous place on his/her person so that other persons can readily see the license at all times while the person engages in soliciting. The city clerk may elect to waive these license display requirements based upon the considerations detailed in subsection 3-7-3 G3 of this chapter.

K. **HOURS TO DO BUSINESS:** All licenses issued to solicitors shall be in force and effect only between nine o'clock (9:00) A.M. and the time of sunset. No soliciting shall occur on nationally recognized holidays. Any person found to be acting as a solicitor without a license, shall also be limited to these hours.

L. **PROHIBITED SOLICITOR ACTIVITIES:**

1. **Prohibited Soliciting:** No solicitor shall do business or attempt to do business upon any property on which is posted notice that peddling and/or soliciting is prohibited.

2. **Supervisor Or Employer:** No person supervising or employing another to solicit or as defined in this chapter shall knowingly allow a person under their supervision or employment to engage in an unlawful act as defined in this section. Each such unlawful act by each employee or supervised person may be charged as a separate offense. There shall be a rebuttable presumption that the supervisor or employer has knowledge of such unlawful acts if a police officer or employee of the city clerk's office gives notice to the supervisor or employer of such unlawful acts and, subsequently, further unlawful acts are committed by the employee or person supervised.

3. **Solicitors On Travel Portion Of Streets Or Highways:** No person, with or without a solicitor license, shall stand, sit, or otherwise be present in or on the travel portion of a public or private street or highway in order to solicit or attempt to solicit from pedestrians or vehicle occupants. The entire width of the roadway shall be deemed the travel portion of a public or private street or highway, including the edge or curb of the roadway and any median or island that separates directional traffic on the street or highway. Solicitors may submit a written request to the city clerk to be allowed to solicit from a traffic median or island. Any such request shall include a diagram or map indicating the location for the proposed solicitation, and a specific date and time for the proposed solicitation. Upon receiving such a written request, the city clerk shall provide the requesting party with the city's expectations that must be satisfied before the city clerk decides to grant or deny the request. The city clerk shall then grant or deny the request in part or in its entirety.

3-7-4: Mobile Food Units

A. **MOBILE FOOD UNIT LICENSING:** It shall be unlawful for any person to engage in the sale of food or beverages to the public from a temporary or mobile facility within the corporate limits of the City of West Des Moines without first obtaining a mobile food unit license from the city, in addition to any other state, or county permits, certifications and licenses.

1. A mobile food unit license is an annual license that expires on April 15 each year and must be renewed prior to the first event after that date.

2. Each mobile food unit shall be licensed separately. No license transfer is allowed.

3. Although certain activities may be exempt from the licensing requirements of this chapter, any food service to the public in the city of West Des Moines is expected to comply with all other local, county and state requirements for health inspections, licensing, safety and fire code requirements.

4. The following shall be exempt from this requirement:

a. Catered events.

b. Concession stands associated with sports or recreational venues that have been approved as part of a site plan or permitted conditional use permit for the venue.

B. LICENSE FEE: At the time of the submittal of a license application, the applicant shall pay to the city clerk the applicable license fee in addition to any application fees.

1. The city council shall establish the amount of the licensee fee by resolution.
2. Any licensee who surrenders their license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

C. FIRE DEPARTMENT INSPECTION:

1. All mobile food units that have cooking facilities or use products with grease laden vapors, (Class III and Class IV state licenses) shall be inspected by the Fire Department prior to initiation of business operations within the city.
2. Inspections are required annually and prior to submittal of a license application to the City. It shall be the obligation of the mobile food vendor to schedule the inspection with the fire department. Class I and II state license classifications are not required to meet this inspection requirement.
3. All Class III and IV mobile food units shall have an acceptable suppression system, as determined by the WDM Fire Department, installed by May 1, 2017.
4. Upon completion of the annual fire inspection, a certificate shall be issued to the applicant to verify completion of the fire inspection.
5. At the discretion of the WDM Fire Department, they may accept the inspection of the mobile food unit by another city's fire inspector to satisfy the annual inspection requirement. Applicant is obligated to contact the Fire Department to verify whether or not another community's inspection is adequate to fulfill obligation of City of WDM inspection requirements.

D. MOBILE FOOD UNIT LICENSING APPLICATION:

1. Application requests shall be filed with the city clerk. No application request shall be accepted for filing and processing unless it conforms to the requirements of this title. This would include a complete and true application, all of the required materials and information prescribed, and is accompanied by the appropriate fees.
2. Applications must be submitted not less than ten (10) calendar days prior to the proposed start date of the mobile food unit activities. The city reserves the right to reject any applications that have not been timely submitted to the city. The City Clerk shall have the discretionary right to accept an application made less than 10-days prior to desired start date.
3. Receiving approval of a mobile food unit license from the city shall not preclude, supersede, circumvent, or waive the applicant's responsibility to obtain any additional permits, licenses, and approvals for other applicable local, state, and federal regulations.
4. Application requirements shall include:
 - a. Full name of the applicant,
 - b. Applicant's contact information including mailing address, phone numbers and e-mail address.
 - c. State Health Inspection Certificate with the classification level of the state license.
 - d. Description of the kitchen facilities, cooking facilities, preparation area, safety features (suppression system, etc.) of the mobile food unit.
 - e. Photographs of the mobile food unit from the front, side and back.
 - f. Make, model and year of vehicle to be used and the license plate number.
 - g. Overall size of the vehicle; length and width.
 - h. Copy of fire department inspection certificate.
 - i. Fee

5. Applications Deemed Withdrawn: Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the city and made reasonable progress within thirty (30) days from the last written notification from the city to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fees to begin a new review and approval process.

6. Issuance of License: Upon completion of the review process and a determination of compliance with the applicable regulations, the city clerk will issue a mobile food unit license and a sticker. The sticker shall be placed on the front bumper of the mobile food unit on the driver's side to aid in the visual verification of the licensing for that year.

7. Modification of License after issuance: Should the mobile food vendor change the food or beverage being offer during the term of an issued license that would change the designation of the mobile food unit to a higher state licensing level classification, a new application and fire inspection shall be required.

E. MOBILE FOOD UNITS ON PUBLIC PROPERTY: No Mobile Food Unit may be operated on public property except as part of an approved event under a Special Use Permit or as authorized by the Parks Board, or their designee, within a city park.

F. UNATTENDED MOBILE FOOD UNIT: No mobile food unit shall be left unattended on any site overnight, unless that property is under the ownership of the operator of the unit and in compliance with all other city code requirements. Mobile food units may also be stored within a mini storage facility or other similar facility that has been authorized and approved by the City for vehicle storage. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to license revocation, municipal infraction, or any other action legally allowed.

G. MUSIC AND SOUND MAKING DEVICES: The use of music or sound making devices as a part of a mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.

H. MOBILE FOOD UNIT PERFORMANCE STANDARDS: Persons conducting business from a mobile food unit must do so in compliance with the following standards:

1. The mobile food truck vendor must obtain expressed written consent of the property owner to use the business property on which they propose to operate. The written consent must be kept in the unit at all times that the unit is on the property.
2. The operator of the mobile food unit shall display their city license in full view of the public in the unit, and have the annual sticker placed on the front bumper of the unit on the driver's side.
3. Mobile food units shall only be allowed on non-residential properties, unless part of an approved event.
4. Mobile food units that are within 300 feet of a residential use or residentially zoned property, shall be limited to hours of operation between 7:00 a.m. and 10:30 p.m.
5. Mobile food units shall be limited to a maximum duration of five (5) hours per day on any site, unless part of an approved event. A mobile food unit shall be at one location a maximum of four (4) consecutive days per week (Sunday through Saturday).
6. Only one mobile food unit shall be allowed on a property, unless part of an approved event. Mobile food units on adjacent properties must maintain a minimum separation between units of fifty feet (50').
7. Mobile food units shall serve patrons which are on foot only; no drive-up service shall be provided or allowed.
8. The mobile food unit must be located on a paved surface, unless approved as part of an approved event.
9. No mobile food unit may be located on a vacant property or lot with a vacant building.

10. No mobile food unit may operate within 100 feet of a permanent restaurant or business offering food or beverage services. A mobile food unit may be located on the same property as a permanent restaurant or business offering food or beverage services, if they receive expressed written consent of the restaurant or business owner.

11. No alcoholic beverages may be sold as a part of a mobile food unit.

12. A Class III or IV mobile food unit that does not have a suppression system, shall maintain a minimum fifteen foot (15') separation from a building as measured to the closest building element including awnings or canopies, tents or membrane structures. Any Class I or II mobile food unit, or any Class III or IV units that have a City of WDM approved suppression system, shall maintain a minimum five foot (5') separation from a building as measured to the closest building element including awnings or canopies, tents or membrane structures.

13. The window or area where a patron orders and receives their purchase shall be located so as to not require a patron to stand, or create a line that may cause pedestrians to be in the public right-of-way, vehicle travel lane, or similar situation that may create a potential safety hazard. Adequate safe space for patrons waiting for their order must be available on the property where the mobile food unit is located.

14. With the exception of pushcarts as allowed herein, no mobile food unit shall be placed on a public or private sidewalk. Pushcarts may locate on, or adjacent to, a private sidewalk or a public sidewalk as part of an approved event, however, a minimum 48" open walkway must be maintained for passing pedestrians. The placement of the pushcart shall be in such a manner so as to minimize encroachment into the 48" walkway by patrons waiting in line for service from the pushcart.

15. Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than six (6) inches from the exterior of the unit. No freestanding signs, banners, flags, etc. are allowed. Off-premise signs directing patrons to the mobile food unit are also prohibited.

16. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers.

17. The mobile food vendor shall keep the area around the mobile food unit clear of litter and debris at all times.

18. All mobile food units shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, etc.

3-7-5: UNLAWFUL ACTS:

A. **Fraudulent Representation/Harassment:** No licensee shall falsely or fraudulently misrepresent the quality, character, or quantity of any article, item, or commodity offered for sale, or sell any unwholesome or tainted food or foodstuffs. No licensee shall harass, intimidate, coerce, or threaten any individual to induce a sale.

B. **Failure of any applicant to maintain the appropriate county, state and federal licenses and permits, during the term of the local license or permits shall be considered an unlawful act and subject to revocation or any other penalties available to the city.**

3-7-6: SUSPENSION OR REVOCATION OF LICENSE:

A. Any license issued under the provisions of this chapter may be suspended or revoked by the city as follows:

1. **Grounds -** The city clerk may suspend any license issued under this chapter, pending the outcome of an administrative hearing, for any of the following reasons:

a. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.

b. The licensee has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.

c. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.

d. The city clerk has received and investigated three (3) or more found complaints during the licensed period related to the manner in which the licensee is conducting business.

2. Notice - The city clerk shall have the licensee served with notice either in person or by regular mail to the licensee's address shown on the license application notifying them of the license suspension, the specific reason(s) for such action, and date and time of hearing with the city clerk to review the particulars of the suspension. The licensee shall be prohibited from any further activities covered by the license until such time that the hearing has been held and a determination of suspension and revocation resolved.

3. Hearing: A hearing shall be conducted by the city clerk not more than five (5) business days after he/she has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this chapter. Should the licensee or his/her authorized representative fail to appear without good cause, the city clerk may proceed with the hearing and make his/her findings.

3. Revocation: After the city clerk has reviewed the facts, he/she shall revoke a license if he/she finds by the preponderance of the evidence that a violation has occurred. The revocation shall be effective immediately.

4. Appeal: If the city clerk revokes or refuses to issue a license, the licensee or the applicant shall have a right to a hearing before the municipal code hearing officer as provided in section 4-4-9 of this code. The municipal code hearing officer may reverse, modify, or affirm the decision of the city clerk.

5. Effect Of Revocation: Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this chapter for a period of one year from the date of the revocation or denial. There shall be no refund of any fees for any revocation.

3-7-7: PENALTY:

Commission of any act declared unlawful and in violation of the provisions of this chapter shall constitute a simple misdemeanor punishable as provided in Iowa Code section 903.1. Failure to comply with the provisions of this chapter shall also constitute a municipal infraction, punishable pursuant to section 1-4-1 of this code.

Section 2. Amendment. Title 9: *Zoning*, Chapter 16: *Temporary Use Permits*, Section 5: *Uses Permitted With A Temporary Use Permit*, Paragraph A, is hereby amended by removing the text in strikethrough lettering and inserting the text in bold and underlined lettering:

9-16-5: USES PERMITTED WITH A TEMPORARY USE PERMIT:

A. The following uses are eligible for a temporary use permit, provided they satisfy the following criteria:

~~Caretaker's dwelling during construction.~~

~~Construction yards, offices, sheds, and trailers.~~

Grand openings and planned events held on private properties that do not create anticipated significant impacts to city property or right of way.

Group assembly activities (e.g., carnivals, fairs, rodeos, sport events, concerts, worship services, and shows).

Parking lot sales, sidewalk sales (private sidewalks only), clearance sales, or other temporary uses which, in the opinion of the director of development services or designee, are similar to the uses listed in this section.

~~Real estate sales offices and model homes.~~

Retail sales of Christmas trees.

Retail sales of landscape nursery material.

Retail sales of pumpkins.

Stands for the sale of agricultural produce.

Temporary concrete and asphalt mixing and storage facilities in accordance with regulations elsewhere in this chapter.

Temporary food and beverage uses **not regulated as a mobile food unit under the provisions of Title 3: Business and Licensing.**

Other temporary uses which, in the opinion of the director of development services or designee, are similar to the uses listed in this section.

Section 3. Amendment. Title 9: *Zoning*, Chapter 16: *Temporary Use Permits*, Section 7: *Specific Requirements*, Paragraph C, *Lot and Sidewalk Commercial Activities*, is hereby amended by modifying paragraph 2, to read as follows and deleting paragraph 5:

2. Maximum Duration: ~~Four (4)~~ **Two (2)** consecutive days, not to exceed ~~four (4)~~ **eight (8)** events within a calendar year. This time limitation shall be accordingly reduced if any grand openings or planned events, pursuant to subsection D of this section, have occurred within the same calendar year.

~~5. Transient Merchants: Transient merchants shall be subject to the licensing requirements of section 3-7-4 of this code. Said license shall be secured prior to issuance of a temporary use permit.~~

Section 4. Amendment. Title 9: *Zoning*, Chapter 16: *Temporary Use Permits*, Section 7: *Specific Requirements*, Paragraph D, *Grand Openings And Planned Events Held On Private Properties That Do Not Create Anticipated Significant Impacts To City Property Or Right Of Way*, by modifying paragraph 2 to read as follows:

2. Maximum Duration: ~~Four (4)~~ **Two (2)** consecutive days, not to exceed ~~four (4)~~ **eight (8)** events within a calendar year. This time limitation shall be accordingly reduced if any lot or sidewalk commercial activities, pursuant to subsection C of this section, have occurred within the same calendar year.

Section 5. Amendment. Title 9: *Zoning*, Chapter 16: *Temporary Use Permits*, Section 7: *Specific Requirements*, Paragraph F, *Real Estate Sales Offices and Model Homes*, is hereby amended by removing said Paragraph F in its entirety,

~~F. Real Estate Sales Offices And Model Homes:~~

~~1. Permitted Zone Locations: All residential zones.~~

~~2. Maximum Duration: Twenty four (24) months.~~

~~3. On Site Sales Office: On site temporary real estate sales office or temporary model home complex may be established only within the boundaries of a residential subdivision, as an accessory facility, for the limited purpose of conducting sales of lots within the same subdivision.~~

4. ~~Off Site Sales Office: Off site sales or offers to sell off site lots or dwelling units, from any temporary office or trailer complex established pursuant to this section shall not be permitted unless such a temporary use permit is approved by the city.~~
5. ~~Definition Of Off Site Sales Office: "Off site lots" shall mean those lots outside the boundaries of a residential subdivision, which subdivision contains an approved real estate sales office or model home complex, and which lots are not adjacent to or contiguous with that subdivision.~~
6. ~~Requirements: Any temporary real estate sales office or model home established or maintained pursuant to this section shall meet all of the following requirements:~~
 - a. ~~Receipt by the city of an agreement and a cash deposit or surety bond in a form approved by the city's finance director and the director of development services or their respective designees in an amount sufficient to guarantee to the city the removal of the sales office or model home complex, or the restoration of the premises in conformity with the approved development plan and with the applicable provisions of this code within sixty (60) days after the last residence or lot within the subdivision has been sold and escrow closed. If, after sixty (60) days, no action has been taken to restore the site or premises, the city may take action to restore the site by utilizing the bond or monies deposited or other methods at its disposal.~~
 - b. ~~Screening of parking areas by walls, fencing, landscaping, or other methods shall be provided as approved by the director of development services or designee.~~

Section 6. Amendment. Title 9: *Zoning*, Chapter 16: *Temporary Use Permits*, Section 7: *Specific Requirements*, Paragraph H, *Construction Yards And Offices*, and Paragraph I, *Caretaker's Dwelling*, are hereby amended by deleting said paragraphs,

~~H. Construction Yards And Offices:~~

1. ~~Permitted locations: Any zoning district, provided that said yards and offices are located on or immediately adjacent to the site of development.~~
2. ~~Duration: During construction of a project or a phase of a project and until sixty (60) days thereafter.~~

~~I. Caretaker's Dwelling:~~

1. ~~Permitted zone locations: All zoning districts.~~
2. ~~Maximum duration: Only during the construction phase of a building or site.~~
3. ~~Other: Only one adult caretaker may reside on the site during nonconstruction hours, provided sanitary facilities are available to said individual.~~

Section 7. Amendment. Title 9: *Zoning*, Chapter 16: *Temporary Use Permits*, Section 7: *Specific Requirements*, Paragraph K, *Temporary Food and Beverage Facilities*, is hereby amended by removing the strikethrough lettering and inserting the underlined text in bold lettering,

- K. **Temporary Food And Beverage Facilities:** Short term temporary food and beverage facilities **that are not regulated as a mobile food unit** shall comply with the regulations stated elsewhere in this chapter for lot and sidewalk commercial activities, grand openings, and planned events held on private properties that do not create anticipated significant impacts to city property or right of way.

Long term temporary food and beverage facilities are temporary facilities that dispense food or beverages from a specific location for a period longer than would be allowed under the short term temporary use regulations and which are not on wheels and are not easily portable or movable, such as a shed or kiosk. Mobile or movable temporary food and beverage facilities (i.e. food trucks and push carts) are regulated under Chapter 7: Business and Licenses.

Long term temporary food and beverage facilities shall comply with the following standards:

1. Permitted Zone Locations: All nonresidential zoning districts.
2. Maximum Duration: ~~May 1~~ April 1 through ~~September 30~~ October 31 of a calendar year, inclusive.
3. Maximum Square Footage Of Structure: One hundred sixty (160) square feet.
4. Health Standards And Licensing: The applicant must obtain licensing, ~~liquor permits~~, certificates of inspection, or any other documentation necessary to comply with all applicable requirements of the state, county, or municipality regarding health standards and ~~for seasonal liquor license~~, whenever applicable.
5. ~~Waste Disposal: The applicant shall provide, as determined by the director of development services or designee, adequate facilities for disposal of trash, waste, and grease.~~
6. ~~Water Service: The structure used for the dispensing of food and beverage shall provide self contained hot and cold running water with appropriate holding facilities for wastewater.~~
7. ~~Wastewater Disposal: Any wastewater shall be collected and disposed in a manner acceptable to the city and shall be explained in the application for a permit.~~
8. ~~Restroom Facilities: Permanent restroom facilities shall be provided in an adjacent building at all times during the temporary use activity. No portable restroom facilities shall be allowed.~~
9. ~~Indemnification And Proof Of Insurance: The owner or operator of any long term temporary food and beverage facility shall provide evidence of comprehensive general liability coverage and contractual liability insurance by an insurance company licensed to do business in the state in the limits of at least one million dollars (\$1,000,000.00) for each personal injury accident and/or death; one million dollars (\$1,000,000.00) for each aggregate personal injury and/or death; and one million dollars (\$1,000,000.00) for each property damage accident. The evidence shall name the city as a coinsured and shall state that it cannot be canceled or materially altered without giving the city at least thirty (30) days written notice by registered mail, return receipt requested.~~

~~The owner or operator of the long term temporary food and beverage facility, or the property owner shall execute an agreement, acceptable to the city, which indemnifies and holds harmless the city from any and all liability, damages, claims, costs, expenses, interest, and reasonable attorney fees relating to the long term temporary food and beverage facilities on their property.~~
- 10- 5. Electrical Service: Electrical service shall be provided as follows: a) overhead power connection with a minimum clearance above grade of fourteen feet (14'); b) installation of an underground conduit; or c) other method acceptable to the city. The use of an overhead connection shall only be allowed in those areas where overhead electrical service exists. Use of an extension cord, cable or wire laying on the ground or otherwise connected to a power source is expressly prohibited for long term temporary food and beverage uses. An electrical permit shall be obtained prior to any electrical installation or connection.

~~11. Screening Of Wheels And Axle: If a structure brought onto a site for dispensing food and beverages is a trailer, an apron or shroud, acceptable to the director of development services or designee, shall be placed around the base of the structure to screen the wheels and axle.~~

~~12- 6. Signage: No detached or freestanding signage shall be permitted except with the issuance of a short term temporary sign permit. The maximum amount of allowed wall signage shall be based upon one foot (1') of sign for each foot of length on the longest side of the structure. All other provisions of the city's sign code shall apply.~~

~~13. 7. Removal: At the expiration of the annual temporary use permit, any structures, barricades, seating facilities elements, or other facilities all things associated with the temporary use shall be removed from the site in accordance with provisions stated in section 9-16-6 of this chapter. No temporary food and beverage facilities shall be allowed to be stored on a site that is not zoned appropriately for storage and warehousing, screened in accordance with city code requirements, and/or having received prior city council approval through an entitlement process for storage and warehousing.~~

Section 8. Repealer. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 9. Savings Clause. If any section, provision, sentences, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any provision, section, subsection, sentences, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 10. Violations and Penalties. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

Section 11. Other Remedies. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

Section 12. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2016, and approved this _____ day of _____, 2016.

Steven K. Gaer, Mayor

ATTEST:

Ryan Jacobson
City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2016, and was published in the Des Moines Register on _____, 2016.

Ryan Jacobson
City Clerk

ATTACHMENT B

From: nick@515pi.com [mailto:nick@515pi.com]
Sent: Thursday, July 14, 2016 7:30 AM
To: Wilde, Kevin <Kevin.Wilde@wdm.iowa.gov>
Subject: RE: Proposed ordinance

Good morning Kevin

It was good talking with you yesterday. Thank you for sending me this copy. I have reviewed and commented in the document. The biggest comments are in regards to the following:

1. Definition of catered event. Many of the trucks are caterers and they are generally called for outdoor events such as weddings and customer/employee appreciation days.
2. The number of trucks on site.
 - a. Our biggest concerns are the office parks and large construction sites where regular service (daily and/or weekly) is requested and where the volume of customers tends to be very high. Specific to the office parks, the businesses and commercial property owners utilize the trucks as a means to provide a greater variety of food options to their employees. They also view the trucks as a means to shorten the lunch breaks that employees take by removing the drive times to restaurants and by keeping their staff on the facility grounds.
 - b. Many employers are developing organizational cultures which promote sitting and interacting with peers outdoors. An example was a request from Kum & Go headquarters to see food trucks outside of their new corporate office in downtown Des Moines to support their culture of "social collisions".
3. In terms of parking separation between trucks, we find that the trucks prefer to be parked close together. The visual of trucks in close proximity is in line with the customer experience of food trucks. Think of it in terms of a linear menu. Customers tend to peruse the menus of each truck before choosing what they want to eat. Shortening up the distance between trucks shortens up the customer walking distance and time.
4. Lastly, food trucks are starting to use commercial restaurants as commissaries which includes overnight parking of vehicles overnight.

I did notice a conflict in operating start times (7:00 am vs 9:00 am). Otherwise, a nicely crafted ordinance given the short time frame. Thank you for your consideration of our comments. Take care.

Nick

Nick Kuhn, President

The Legion of Food

Email: Nick@515pi.com

Mobile: 515.491.7680

Website: www.legionoffood.org





From: Wilde, Kevin [<mailto:Kevin.Wilde@wdm.iowa.gov>]
Sent: Thursday, July 14, 2016 10:23 AM
To: nick@515pi.com
Subject: Proposed ordinance

Good morning Nick,

I appreciate your quick review and thought that I would clarify a few things. The first part of the new chapter being named "Solicitor and Mobile Food Units" is addressing the "solicitor" which are primarily the entities that go door to door or solicit donations or sales along streets (the fire departments typically do the boot collections around Memorial Day or Labor Day as an example). So the conflicting times, i.e. the 9:00 am start time, would only apply to those types of activities and the mobile food units would have the 7:00 am start time.

The definition of catering events is one that I have struggled with trying to get my arms around since day one. We are trying to draw a line so that we are not dealing with the actual catering type events as most of those, we don't even know about. I know that there are businesses that have allowed people to bring food to their location and sell to employees in their break rooms and other events like Jason's deli bringing food to meetings that we don't want to get into regulating. That was the intent of the language. The examples you noted, weddings and appreciation days, many of these would be covered with "approved events" where the host of the event would take out a temporary use permit (TUP) and the food trucks would be reviewed as a part of that process. If the employer or wedding host is paying for the food served from the truck, then that would also be exempt. If truck is a licensed truck, then the only potential issue would be if the wedding was being held in a residential district and the individuals at the event were responsible for paying for their own food since mobile food units are not allowed in a residential district. If the event is an appreciation day event in a non-residential district, then a licensed truck would be allowed anyway. So I think that we have most "catering" situations covered but if you have any suggestions on how I could better clarify this, I would appreciate them.

The multiple truck situation is one that I am not sure how to handle. I passed the idea of the conditional use permit process that DM uses on to our legal department and we are still discussing that possibility. From the limited communications we have had with the Council in this process, it seemed to me that

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they didn't want to open up a can of worms by creating a situation where there are daily/weekly food truck events with multiple trucks occurring all across the city. Part of the challenge with the way we have crafted the ordinance is that our emergency services personnel do not have any type of review on the set-up locations on sites like they do with our current process. So congregating multiple trucks in one location could create access and safety issues that would be hard to define in an ordinance without having the specifics of that particular site. So I will pass your comments on this along with the proposed ordinance but at this time, I am not sure how to cover the bases to address this without a different review process. It was our hope that the 50' separation but on different lots would allow for multiple truck in close proximity but still leave space for circulation, building and site access and hydrant and Fire Department Connection access.

On the last topic, the overnight parking, if the site plan for the commercial restaurant was approved with spaces for overnight parking, then this would not be a problem. What we are trying to address is the problem that was expressed at the DM meeting I attended, people just parking the vehicle on a site and never moving it. For the most part, enforcement of all of the provision of the ordinance is going to be minimal, primarily based upon complaints or continual abuse or violation of the regulations. If a mobile food unit is parking the truck at the rear of a restaurant where they are not, for lack of another way of saying it, actively advertising along a public street frontage by parking the truck so it is visible, it would probably not be a problem. We already have regulations in the Sign Code that prohibit vehicles from being parked adjacent to public street for advertising purposes. So again, I am not sure how to address this comment until we have a particular site to look at how the vehicle being parked on the site will affect what was addressed for that particular site with the site plan.

I will keep moving forward with what I am doing and send the staff report to P&Z when it is finalized. Thanks again for your comments,

Kevin