



CITY OF GRAND RAPIDS AGENDA ACTION REQUEST

DATE: July 26, 2016

TO: Gregory A. Sundstrom, City Manager

FROM: Jessica Wood, Assistant City Attorney
Department of Law

SUBJECT: **Public Hearing on Mobile Food Business Ordinance**

On July 12, 2016, the City Commission adopted a Resolution setting a public hearing to be held on July 26, 2016, on a new "Mobile Food Business Ordinance" adding Sections 6.100 through 6.115 and Chapter 74 to Title VI of the City Code entitled Food and Health.

The attached ordinance is the subject of the public hearing. This ordinance is scheduled to come before City Commission for consideration on August 23, 2016.

An ordinance to amend Title VI of the City Code entitled Food and Health and add Chapter 74 entitled “PILOT MOBILE FOOD BUSINESS ORDINANCE” adding Sections 6.100 through 6.115.

Chapter 74— PILOT MOBILE FOOD BUSINESS ORDINANCE

Sec. 6.100-Title

This Chapter 74 shall be known as the “PILOT Mobile Food Business Ordinance” of the City of Grand Rapids.

Sec. 6.101-Purpose

The purpose of this Chapter is to establish a temporary pragmatic PILOT policy framework for managing mobile food businesses in the City’s public and open space and rights-of-way areas in order to support culinary entrepreneurship, small business development, placemaking and increased vibrancy in the City of Grand Rapids. This ordinance advances implementation of GR Forward, an amendment to the City Master Plan adopted by the City Commission in December 2015.

Sec. 6.102-Definitions

- (1) Mobile Food Vending shall mean 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, as amended.
- (2) Mobile Food Business shall mean any motorized or non-motorized vehicle, trailer or device designed to be portable and not permanently attached to the ground from which food is served or offered for sale.
- (3) Vendor shall mean any business engaged in Mobile Food Vending.

Sec. 6.103-Zoning Ordinance Suspended

During the two year existence of this PILOT ordinance, any and all applicable Zoning Ordinance provisions are hereby suspended only insofar as they apply to Mobile Food Businesses locating on public property (which includes for purposes of this ordinance all publicly owned property, public open spaces and public rights-of-way). Any Mobile Food Business that seeks a license to operate on private property shall remain subject to the City’s Special Land Use Application and Review Standards for the time being.

Sec. 6.104-Automatic Effect

This PILOT ordinance shall automatically expire two years after its effective date unless the City Commission votes to extend or amend it.

Sec. 6.105-License Required

No person shall engage in Mobile Food Vending or operate a Mobile Food Business on publicly owned property without a valid business license required under this section. To the extent authorized by any such license granted under the provisions of this section, the licensee may conduct such licensed business on publicly owned property only in accordance with this ordinance. The license shall be valid for one year and expire on June 30 of every year.

Sec. 6.106-Application for License

Vendors seeking to engage in Mobile Food Vending shall make a written application to the City Clerk for a license under this Chapter. The application for license shall be on forms provided by the City Clerk and shall be accompanied by a fee established by resolution of the City Commission. Application information required shall include the following:

- (1) Name of the applicant and business, signature, phone number, email contact and business address of the applicant.
- (2) Information on the Mobile Food Business, including the year, make and model of the vehicle or unit and its dimensions.
- (3) A general description of the food products offered for sale, including the menu.
- (4) Copies of all necessary licenses or permits issued by the Kent County Health Department and/or the State of Michigan.
- (5) Written consent of fire safety compliance by the Grand Rapids Fire Department.
- (6) A signed statement that the licensee shall hold harmless the City, any applicable special service district and their officers and employees, and shall indemnify the city, any applicable special service district, and their officers and employees for any claims for damage to property or injury to persons which may occur as a result of any activity carried on under the terms of the license.
- (7) Proof of 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 the State of Michigan 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 used by an insurer licensed to do business in the State of Michigan.
- (8) A license issued under this ordinance is valid for one Mobile Food Business (one vehicle) and its employees.
- (9) A license issued under this ordinance shall not be transferable from Vendor to Vendor.

Sec. 6.107 -Processing Fees

Prior to the issuance of a license pursuant to the provisions of this Chapter, a fee as specified in Chapter ___ shall be paid to the City. Processing fees are non-refundable.

Sec. 6.108- Locations; Proximity Restrictions

Vendors licensed under this ordinance shall be permitted to operate only on publicly owned property (public property, open spaces, public rights-of-ways) in accordance with the terms of their license within the City of Grand Rapids. All special event permitting ordinances and requirements in the City continue to apply and to be in full force and effect in addition to this ordinance.

All Vendors wishing to locate in a public park or open space shall comply with City Department of Parks and Recreation requirements.

All Vendors wishing to locate in parking meter locations shall comply with City parking requirements.

No vending shall be permitted within 100 feet of any brick and mortar restaurant including any establishments that serve food as part of their business. Also, no vending shall be permitted within 300 feet of any fair, festival, special event or civic event licensed or sanctioned by the City unless the Vendor has a Special Event license or written letter of support from the special event promoter.

Recognizing that some brick and mortar restaurant operators and establishments that serve food as part of their business would like food trucks located near them, these proximity restrictions may be waived by the City if the Vendor obtains written letters waiving proximity restrictions from any affected brick and mortar restaurant operator or operators and/or establishments that serve food as part of their business/businesses.

Sec. 6.109-Operating Guidelines

- (1) Vendors shall be ready to provide visual proof of the City License and all necessary Kent County Health Department and/or State of Michigan permits at all times.
- (2) Mobile Food Vending may take place only during hours permitted by the Parks and Recreation Department when located within a public park (dusk to dawn); between 6:00 a.m. and 12 midnight when located at parking meters or within public rights of way; and between 7:00 a.m. and 10:00 p.m. in areas zoned residential. These hours will be strictly enforced.
- (3) All Mobile Food Businesses shall offer a waste container for public use which the Vendor shall empty at its own expense. All waste originating from the Mobile Food Business operation shall be collected and disposed of off-site by the Vendor each day. Spills of food or food by-products shall be cleaned up and no dumping of gray water on the street or in parks and storm drains is allowed. Vendors should take appropriate precautions to prevent spills or other damages to the public property, including park land, sidewalks and streets. Vendors will be liable to pay for any damages to the public property as a result of their operation. Vendors are responsible

for all grey water, grease, and other food waste, which shall NOT be dumped or disposed of on or into public property including drains.

(4) The Mobile Food Business shall comply with the City noise ordinance, including generators, at all times. No Mobile Food Business shall make or cause to be made any unreasonable or excessive noise. No loud music or amplified announcements are permitted.

(5) Signage shall be placed on the Mobile Food Business. Separate free-standing signs are permitted in accordance with the City's existing encroachment regulations.

(6) No flashing or blinking or strobe lights are allowed when the Mobile Food Business is parked and in service. All exterior lights more than 60 watts shall contain opaque hood shields to direct illumination downward.

(7) Any power required for a Mobile Food Business located in the public right of way shall be self-contained and self-provided and shall not draw on public utilities without written authorization from the City. No power cable shall be extended on or across any city street or sidewalk except in a safe manner.

(8) Mobile Food Businesses shall not park adjacent to street trees, bicycle racks, refuse containers or other streetscape amenities in a way that congests efficient pedestrian travel.

(9) On-street parking and curbside service is permitted when in compliance with all ordinances, regulations, parking zones and posted signage. Mobile Food Businesses shall operate only in parallel – ie not angled – parking spaces.

(10) When on-street, the Vendor shall provide service on the curbside only and the Mobile Food Business shall be parked within one (1) foot of the curb. No service shall be provided on the driving lane side of the Mobile Food Business.

(11) Parking at metered spaces is allowed and subject to the following conditions:

- (a) A Mobile Food Business shall reserve metered spaces through and in compliance with the City's Meter Reservation Program.
- (b) The Mobile Food Business shall comply with all posted requirements and fees in accordance with subsection (11)(a).
- (c) No Mobile Food Business, including any trailer, shall occupy more than two (2) metered parking spaces. Trailers may be detached from the vehicle while in operation.
- (d) Mobile Food Businesses are prohibited from reserving a metered space by blocking, barricading, hooding, signing or in any other manner preventing another vehicle from occupying the space. No Mobile Food Business shall have the right to occupy any particular space except through the licensing process.

(12) Mobile Food Businesses shall not be parked on the street overnight or left unattended and/or unsecured at any time food is in the vehicle. Any Mobile Food Business found unattended shall be considered a public safety hazard and may be ticketed and/or impounded.

(13) No vending is allowed within 15 feet of a fire hydrant.

Sec.6.110-PILOT Evaluation Period

This pilot policy framework is intended to demonstrate a new approach to managing Mobile Food Businesses on publicly owned property. To gauge the effectiveness of the approach, a diverse body of City staff and key stakeholders shall develop an assessment tool, gather relevant data and information to support an informed evaluation, outline lessons learned and provide a report of findings and recommendations to City Commission in January 2018 and January 2019. The City Commission may determine to suspend, modify or expand the approach at any time. Absent any extension, this PILOT ordinance shall expire two years from its effective date.

Sec. 6.111-Impoundment

Any equipment associated with the Mobile Food Business that is not in compliance with this Chapter and left on public property may be impounded at the owner's expense.

Sec.6.112-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.

Sec.6.113-Revocation

The City Clerk may revoke the permit of any Vendor engaged in Mobile Food Vending who fails to meet any requirement of this Chapter or violates any other federal, state or local law, makes a false statement on their application, or takes part in any activity 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.

Sec.6.114-Complaints and Appeals

If a valid written complaint is filed with the City Clerk alleging that a 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 the Clerk's Office will investigate the truthfulness of the complaint. The City Clerk shall invite the Vendor to respond to the complaint, present evidence and respond to any evidence discovered during the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint is supported by a preponderance of the evidence, the City Clerk shall certify the complaint.

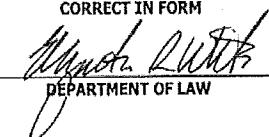
If a license is denied or revoked by the City Clerk, the applicant or holder of a license may appeal to and have a hearing before the City Manager. The City Manager shall

make a written determination, after presentation by the applicant or licensee and the City Clerk as to whether or not the grounds for denial, revocation or complaint are valid. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk or filing of the complaint shall be sustained. The applicant or licensee may then appeal the City Manager's decision to a court of competent jurisdiction.

Sec.6.115-Civil Infraction

A violation of this ordinance shall be a municipal civil infraction, punishable by a fine as established in Chapter 170 of this Code.

Prepared by Jennifer Morgrette and Jessica Wood

CORRECT IN FORM

DEPARTMENT OF LAW