



CITY OF GRAND RAPIDS AGENDA ACTION REQUEST

DATE: August 23, 2016

TO: Gregory A. Sundstrom, City Manager

FROM: Jessica Wood, Assistant City Attorney
Department of Law

SUBJECT: **New Mobile Food Truck Ordinance Second Reading & Consideration for Final Adoption - Information Item**

Attached for your final consideration and adoption please find a proposed Mobile Food Truck Ordinance. Following the introduction of the ordinance on July 12, 2016, and a public hearing held on July 26, 2016, the ordinance now contains certain characteristics reflecting the suggestions of the many stakeholders. Some bullet points covering the salient features of the ordinance are as follows:

1. It contains a clearer definition of “food truck” to ensure a common understanding of permissible vehicle types.
2. It contains a provision to proactively and measurably address noise concerns. The proposed ordinance now limits allowable noise levels to 70 decibels when measured from a distance of 15 feet to protect public health, safety and welfare.
3. It contains a provision to manage vehicle emissions and protect public health. The proposed ordinance now requires vehicle exhaust to be directed away from pedestrians and the service side of the food truck.
4. The proximity-based restrictions to guide food truck location decisions were removed. The proposed ordinance now establishes several food truck opportunity areas, which are listed and described in the ordinance. See attached map for specific proposed locations on public property and hours of operation. In general, the designated areas include: Industrial areas citywide, 13 areas in Downtown, and 7 city parks.
5. It designates the Corridor Improvement Districts as “food truck eligible areas” and encourages CID leadership to discuss the value of food trucks as economic development tools and recommend locally-determined food truck management guidelines to City Commission.
6. It contains a mechanism for the public to apply for a temporary use of food trucks outside of designated areas.

7. It contains a mechanism for the public to petition for an expansion of designated food truck opportunity areas.

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 6.116.

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 and does so in a way that promotes the public health, safety, and welfare.

Sec. 6.102-Definitions

- (1) Mobile Food Vending Business (aka Mobile Food Vending) shall mean serving or offering for sale food and/or beverages from a mobile food vending unit which means for purposes of this ordinance a self-contained, fully enclosed vehicle including attached trailers for smokers or grills. This definition does not include food tents or food carts.
- (2) 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 within the designated areas set forth in this ordinance). 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. Other provisions of the City Code relating to cart vendors in Chapter 46 and relating to licensing and regulation generally in Chapter 91 shall remain in full force and effect to the extent that they do not conflict with this Chapter.

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 business 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 and generator noise decibel and exhaust 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 Commercial General Liability policy with limits of no less than \$1 million per occurrence with a \$2 million general aggregate including products liability 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

Fees required by this Code for license applications shall be paid to the City Treasurer prior to submission of the application. Prior to the issuance of a license pursuant to the provisions of this Chapter, fees required by this Code for the issuance of a license shall be paid to the City Treasurer. Processing fees are non-refundable. Except as otherwise provided for by law or in this Code, fees required by this Code shall be set out in Chapter 92 of this Code.

Sec. 6.108- Locations Permitted

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. The provisions of this Chapter shall not apply to vending in connection with Special Events as provided for in this Code in which case the Special Events provisions of this Code and any resolution adopted in connection with the special event shall apply.

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

All Vendors wishing to locate in parking meter locations shall comply with City Parking Department (GR Mobile) requirements and fees.

Vendors shall be allowed to operate within the following designated areas as described below and as reflected on the attached maps which are adopted and incorporated in this Chapter as if fully set out. Copies of the maps are available at the Office of the Grand Rapids City Clerk located on the second floor of City Hall, 300 Monroe Ave., NW, Grand Rapids, Michigan:

1. Gillette Bridge – The area on the Gillette Bridge pedestrian crossing from the east to west bank of the Grand River.
2. Lyon Square – The paved public plaza area at the western terminus of Lyon Street SW.
3. Calder Plaza – The concrete public plaza surrounding the City-County Building. This zone also includes the metered parking spaces on the west side of Ottawa Avenue NW between Michigan Street and Lyon Street.

4. Canal Park – The paved public parking area within Canal Park. Also the metered parking spaces on the west side of Monroe Avenue NE adjacent to Canal Park.
5. Sixth Street Park – The paved public parking area within Sixth Street Park. Also the metered parking spaces on the west side of Monroe Avenue NE adjacent to Sixth Street Park.
6. Coldbrook Edge – The paved parking area along the east bank of the Grand River south of the Grand Rapids Fire Department station, north of the electrical transformer and west of the City Water Facility at 1101 Monroe Avenue NW.
7. Ionia Ave SW – The metered parking area along the west side of Ionia Avenue SW from Williams Street SW to Logan Street SW.
8. Grandville Ave – The metered parking on the east and west side of Grandville Avenue SW from the area underneath the 131 overpass to Cherry Street SW.
9. Commerce Ave – The metered parking area on the east and west side of Commerce Avenue SW from Oakes Street SW to Cherry Street SW.
10. Century Ave – The on-street parking area on the east and west sides of Century Avenue SW from Wealthy Street SW to Logan Street SW.
11. Fulton Street/131 overpass – The off-street public right-of-way areas to the north and south of Fulton Street W immediately under the 131 overpass.
12. Rosa Parks Circle – The paved area along the east side of Rosa Parks Circle from Monroe Center Street NW to Louis Street NW.
13. 22 Ottawa Avenue NW – The surface public parking located at the corner of Ionia Avenue NW and Fulton Street W commonly known as “the Wedge lot.”

Potential areas within the CID Districts, subject to CID recommendation and City Commission approval, may be added to the designated area maps in the future pursuant to the ordinance amendment process.

As the City of Grand Rapids seeks to incrementally expand the use of Mobile Food Businesses through this pilot initiative, the City will accept proposals from the public regarding potential new designated locations. All proposals should be submitted to the City Manager’s Office. In order to qualify, proposed locations must be publicly-owned facilities. If approved, the proposed location will be incorporated into this Chapter as a recognized designated location pursuant to the ordinance amendment process. The City is not obligated to approve proposed locations.

Sec. 6.109- Temporary limited license

A licensed Mobile Food Vendor may procure a temporary license to operate in the public right-of-way beyond the designated locations defined by this Chapter in order to serve at the request of the public. Vendors may make an application for a license with the City Clerk on an application in a form to be determined and provided by the City Clerk. Such application shall, in addition to information required by the City Clerk, include the following:

1. Name and License Number of Mobile Food Vendor
2. Written and signed request of public entity for vendor to provide service. Request must include:
 - a) Date and Times of Vendor Service, including the start and end times of service;
 - b) Address of Vendor Service location, including meter numbers if applicable;
 - c) Name, phone number, e-mail contact and address of public entity;
 - d) Estimated number of people to be served.

Mobile Food Vendors operating under a temporary license shall adhere to all of the following guidelines:

1. All operating guidelines as defined by this Chapter;
2. Vending may take place only between the hours of 8 am and 10 pm and the duration shall not exceed 4 hours;
3. Vendors shall comply in all respects with state and local law.

Sec. 6.110-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. Hours of Operation
 - a) In Parks, from dawn until dusk, consistent with other Park activities.
 - b) In Industrial Designated Areas, 24 hours, 7 days a week.
 - c) In Downtown Designated Areas, 6:00 a.m. until 2:30 a.m.
 - d) After City Commission approval and following recommendations from CID Boards relating to locations and hours, certain CID areas may be eligible in the future.
 - e) 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. No Mobile Food Business shall make or cause to be made any unreasonable or excessive noise. No loud music or amplified announcements are permitted. Additionally, all generators must operate at a level of 70 decibels or lower when measured from a distance of 15 feet. Initial inspection by the Fire Department will include generator noise testing.
5. All Mobile Food Businesses shall direct exhaust away from the service side of the vehicle. Initial inspection by the Fire Department will include exhaust compliance.
6. Signage shall be placed on the Mobile Food Business. Separate free-standing signs are permitted in accordance with the City's existing encroachment regulations.
7. 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.
8. 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, concealed manner designed to prevent tripping.
9. 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.
10. On-street parking and curbside service is permitted when in compliance with all ordinances, regulations, parking zones and posted signage.
11. 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.
12. 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.
 - 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) No Mobile Food Business shall have the right to occupy any particular space except through the licensing process.
13. No vending is allowed within 15 feet of a fire hydrant.

Sec.6.111-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. 6.112-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.6.113-Other Permits or Licenses or Authorizations

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

Sec.6.114-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.6.115-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.6.116-Severability

If any portion of this ordinance is found by a court of competent jurisdiction to be invalid, the remainder of the ordinance shall survive and remain in full force and effect.

Prepared by Jennifer Morgrette and Jessica Wood

CORRECT IN FORM

DEPARTMENT OF LAW