



City of Pensacola

City Council Workshop

Agenda - Final

Monday, September 20, 2021, 3:30 PM

Hagler-Mason Conference Room,
2nd Floor

Immediately following Special CRA Meeting. Members of the public may attend the meeting in person. City Council encourages those not fully vaccinated to wear face coverings that cover their nose and mouth.

The meeting can be watched via live stream at cityofpensacola.com/428/Live-Meeting-Video.

CALL TO ORDER

SELECTION OF CHAIR

DETERMINATION OF PUBLIC INPUT

DISCUSSION OF...

- [21-00803](#) SECTION 8-1-13 - REGULATION OF NOISE - PROPOSED AMENDMENTS
Sponsors: Jared Moore
Attachments: [Section 8-1-13. Regulation of Noise – Draft Proposed Amendments](#)
- [21-00804](#) FOOD TRUCK - RULES AND REGULATIONS
Sponsors: Jared Moore
Attachments: [Proposed Ord 16-16 - Food Trucks](#)
[Proposed Ordinance Compromise - Food Truck Rev 11-19-15 with s](#)

ADJOURNMENT

If any person decides to appeal any decision made with respect to any matter considered at such meeting, he will need a record of the proceedings, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to City services, programs and activities. Please call 435-1606 (or TDD 435-1666) for further information. Request must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00803

City Council Workshop

9/20/2021

DISCUSSION ITEM

SPONSOR: City Council President Jared Moore

SUBJECT:

SECTION 8-1-13 - REGULATION OF NOISE - PROPOSED AMENDMENTS

SUMMARY:

The purpose of this item is to discuss possible amendments to the noise ordinance.

Council members routinely receive complaints about noise within the city, from loud vehicles to the use of leaf blowers and other lawn equipment.

Attached is a DRAFT of proposed amendments to begin the discussion. This draft is a combination of the existing ordinance meshed with portions from other Florida municipalities.

PRIOR ACTION:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) Section 8-1-13. Regulation of Noise - Draft Proposed Amendments

PRESENTATION: No

Sec. 8-1-13. - Regulation of noise.

(a) Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient sound level means the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds and those from the source under investigation. The ambient sound level is synonymous with background sound level. Ambient sounds are differentiated from extraneous sounds by the fact that the former are of a more steady state, although they may not be continuous. For purposes of this definition, the term "extraneous sound" means a sound of high intensity and relatively short duration which is neither part of the ambient sound, nor comes from the sound source under investigation.

Amplified sound means the use of any loudspeaker, public address system, amplifier, or any other device which electronically or mechanically augments the volume of sound including, by way of example, a radio, television set, bullhorn, or musical instrument.

Person means any individual, corporation, partnership, or other legal entity, or any agent or employee thereof.

Real property line means either:

- (1) The boundary line of a parcel;
- (2) The vertical and horizontal boundaries of a dwelling unit that is part of a multifamily dwelling; or
- (3) On a mixed-use property, the interface between the two portions of the property on which different categories of activity are being performed.

For purposes of this definition, the term "mixed-use property" means more than one type of use in a building or set of buildings with some combination of residential and nonresidential use, and the term "multifamily dwelling" means any building occupied or intended to be occupied by more than two families, living separately and with separate kitchens or facilities for cooking on the premises (which includes apartments, condominiums and coach homes, but does not include hotels, motels, bed and breakfasts, townhouses, or cluster dwellings).

Sound-affected site or unit means the location or dwelling unit of a person making a noise complaint.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting network, such as A, as specified in the latest revision of the ANSI Standard S1.4, "Specification for Sound Level Meters."

Sound level meter means an instrument that measures sound and conforms to ANSI S1.4-1983 or its successor publications.

Violator means any person that has committed or is alleged to have committed a Code violation or is legally responsible for a Code violation including, but not limited to, a property owner or his or her agent, tenant, or entity on the premises, or any combination thereof.

(b) General Prohibition.

It shall be unlawful for any person to willfully make, continue or cause to be made or continued any loud and raucous noise which term shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city.

(c) The following acts, among others, are declared to be loud and raucous noises in violation of this section 8-1-13, which enumeration shall not be deemed to be exclusive:

(1) Horns and signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up. The use of sirens, except by authorized emergency vehicles, is prohibited.

(2) Amplified sound. The making of amplified sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, chamber, or outdoor private property in which such machine or device is operated and who are voluntary listeners thereto. The making of any such sounds;

a. Between the hours of 10:00 p.m. and 7:00 am the following day on Sunday, Monday, Tuesday, Wednesday and Thursday ; or

b. Between the hours of 11:00 p.m. and 7:00 a.m. the following day on Friday and Saturday;

in such manner as to be plainly audible at a distance of 50 feet from the source of the noise, or if the noise is emanating from a building, structure or vehicle, shall be prima facie evidence of a violation of this section. Such amplified sound is prohibited in the following zones: R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, HR-1, HR-2, HC-1, PR-1AAA, PR-2, ATZ-1 and ATZ-2. Provided, however, that the making of amplified sound in connection with a special event or parade shall be governed by the applicable noise provisions found in this code.

- (2 3) *Radios, phonographs and similar devices.* The using, operating or permitting to be played, used or operated, of any radio receiving set, television set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this paragraph.
- (3 4) *Local vocal noises.* Vocal noises made in a loud and raucous manner between the hours of ~~11:00~~ 10:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, comfort, or repose of persons in any office or other place of business, or in any dwelling, hotel or other type of residence.
- (4-5) *Animals and birds.* ~~The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of persons in the vicinity. The owning, keeping, possessing or maintaining of any domesticated animal which vocalizes (howls, yelps, barks, squawks, or generates any other noise) where the vocalizing is plainly audible at or within the property line of the sound-affected site or unit, and where:~~
- a. Such vocalizing continues for more than five (5) minutes without interruption, which is defined as an average of ten or more vocalizations per minute; or
 - b. Such vocalizing is repeated an average of five (5) times or more per minute for 20 or more consecutive minutes.
- (5 6) *Exhaust.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, ~~motor boat~~ flushing of boat motors, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6 7) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or vehicle so out of repair, so loaded or in such manner as to create unreasonably loud and unnecessary grating, grinding, rattling or other noise within a residential area.

(8) Mufflers. Every motor vehicle, motorcycle and motor-driven cycle muffler that creates unreasonably, excessive or unusual noise.

(9) Noises to attract attention. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.

(10) Loudspeakers, ect. The use or operation on or upon the public streets, alleys and thoroughfares anywhere in the city for any purpose of any device known as a sound truck, loudspeaker or sound amplifier or any other instrument of any kind or character which emits loud and raucous noises.

(11) Power tools and landscaping equipment use by resident. The operation of noise-producing lawn mowers, lawn edgers, week trimmers, blowers, chippers, chainsaws, power tools and other noise-producing tools which are used to maintain the outdoors of a residence:

a. Between the hours of 8:00 p.m. on Sunday, Monday, Tuesday, Wednesday Thursday and Friday and 8:00 a.m. the following day;

b. Between the hours of 8:00 p.m. Saturday and 8:00 a.m. the following day.

c. Permissible hours of use:

<u>Power Tools and Landscaping Equipment Use by Resident</u>	
<u>Monday - Saturday</u>	<u>Sunday</u>
<u>8:00 a.m. to 8:00 p.m.</u>	<u>8:00 a.m. to 8:00 p.m.</u>

(12) Outdoor maintenance equipment use by commercial entity. The use of maintenance equipment by a commercial entity or business, which creates a loud, excessive, unnecessary or unusual noise in connection with the operation of said equipment with 100 feet of any residential area:

a. Between the hours of 7:00 p.m. on Monday, Tuesday, Wednesday, and Thursday and 8:00 a.m. the following day;

b. Between the hours of 7:00 p.m. on Friday and 8:00 a.m on Saturday;

c. Between the hours of 7:00 p.m. on Saturday and 8:00 a.m. on Monday

d. Permissible hours of use:

<u>Outdoor Maintenance Equipment Use by Commercial Entity</u>			
<u>Sunday</u>	<u>Monday-Thursday</u>	<u>Friday-Saturday</u>	<u>Sundays & Holidays</u>
<u>Prohibited</u>	<u>8:00 a.m. to 7:00 p.m.</u>	<u>8:00 a.m. to 7:00 p.m.</u>	<u>Prohibited</u>

e. The use of outdoor maintenance equipment within all parks located within the City are exempt from the hours of operation restrictions.

f. The use of outdoor maintenance equipment by, or on behalf of, the City of Pensacola is exempt from the hours of operation restrictions.

Commercial maintenance equipment includes, by way of example, noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chainsaws, power tools, and other noise-producing tools, where that noise is generated by a third party commercial maintenance company, rather than by the lawful owner or tenant of the premises.

(8 13) *Schools, courts, churches, hospitals, and other medical facilities.* No person, while on public or private grounds adjacent to any building in which a school, court, church, hospital, or other medical facility is in session or in use, shall willfully make or assist in the making of any noise which disturbs the peace or good order of such activity occurring within the building. The term "medical facility," as used in this paragraph, includes physicians' offices, walk-in medical centers, medical diagnostic testing centers, surgical centers and facilities which provide reproductive health services including the termination of pregnancy and/or counseling or referral services relating to the human reproductive system.

(7 14) *Construction or repairing of buildings.*

(i) The erection, including excavation, demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and 7:00 p.m. on Monday through Saturday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the director of inspections, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the director of inspections should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 7:00 p.m. and 6:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 7:00 p.m. and 6:00

a.m., including Sundays, upon application being made at the time the permit for work is awarded or during the progress of the work.

(ii) *Reserved.* At the request of the city this section has been removed.

(9 15) Construction equipment.

(i) The operation between the hours of 6:00 p.m. and 7:00 a.m. and at any time on Sundays of any pile driver, steam or power shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(ii) The provisions of subsection (i), above, insofar as they pertain to the hours between 7:00 a.m. and 6:00 p.m. on Sundays are suspended and shall not be operative through December 31, 2006, in order to facilitate residential repair from damage caused by Hurricane Ivan.

(16) Steady, mechanical noise. The use of an air conditioner, electric motor, pool pump, exhaust fan, filter, or similar noise-producing mechanical equipment which creates a noise that exceeds the following sound levels:

<u>TABLE 1: Maximum Permitted Sound Levels in Decibels (dBA)</u>
<u>To Be Determined</u>

The sound levels in Table 1 above shall be measured from the real property line of the sound-affected site or unit, and the zoning district where the sound-affected site or unit is located shall apply. The sound levels shall be measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute. The subsection (16) shall not apply to noise generated pursuant to a valid construction permit or during a declared state of emergency.

(17) Shouting. Any unreasonably loud, boisterous or raucous shouting in any residential area.

~~(10) Electronic sound amplification.~~ The use of electronic sound amplification equipment in such a manner as to produce a sound which is capable of being heard at a point in excess of fifty (50) feet between the hours of 11:00 p.m. and 7:00 a.m. is prohibited in the following zones: R-1AAAAA, R-1AAAA, R-1AAA,

~~R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, HR-1, HR-2, HC-1, PR-1AAA, PR-2, ATZ-1 and ATZ-2.~~

- (c) The provisions of section ~~8-4-16~~ 8-1-13 are intended to be construed to secure for the people freedom from unwanted loud and raucous noise as described herein without violating any of the rights secured by the constitution to the people, and are not intended, nor shall they be construed, to regulate the usual and customary noise incidental to urban life.
- (d) Exemptions. The terms and prohibitions of this article shall not be applied to or enforced against:
- (1) Any motor vehicle, boat or other vehicle of the city, the county or the state or licensed public utility vehicle within the city while engaged in necessary emergency or public business.
 - (2) Emergency work of public service utilities by or on behalf of the city, the county, or the state, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.
 - (3) Reasonable noise generated for the purpose of alerting persons to the existence of an emergency or to other dangers; reasonable noise generated in the performance of reasonable actions taken in response to an emergency or danger, including but not limited to, the operation of emergency backup energy generators; and reasonable noise generated in the testing of devices used for purposes of alerting persons to the existence of an emergency.
 - (4) Sanitation operations which include the unloading, emptying or collection of any waste or recyclable container, provided that operation is conducted between the hours of 7:00 a.m. and 10:00 p.m.
 - (5) Noise generated by any aircraft or generated in connection with the operation of any airport.
- (d) *Penalty.* Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and subject to the penalty provided by section 1-1-8 of the Code.
- (e) *Additional remedy, injunction.* As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in an area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 52-87, § 1, 12-10-87; Ord. No. 7-93, § 1, 4-8-93; Ord. No. 33-94, § 2, 9-18-94; Ord. No. 37-94, § 1, 10-13-94; Ord. No. 4-95, § 1, 1-26-95; Ord. No. 07-05, §§ 1, 2, 6-23-05)



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00804

City Council Workshop

9/20/2021

DISCUSSION ITEM

SPONSOR: City Council President Jared Moore

SUBJECT:

FOOD TRUCK - RULES AND REGULATIONS

SUMMARY:

In 2015-2016 the City Council discussed a food truck ordinance outlining the appropriate regulations of food trucks. In October of 2015 City Council approved Proposed Ordinance No. 22-15 on first reading, but it failed to adopt on second reading in November of 2015.

In January of 2016 City Council approved Proposed Ordinance No. 05-16 on first reading but failed to adopt on second reading in February of 2016.

In May of 2016 Proposed Ordinance No.16-16 died for lack of a second.

On September 9, 2021, City Council approved Proposed Ordinance No. 38-21 on first reading to amend Section 11-2-24 of the City Code which, among other things, somewhat regulated where a food truck could be located downtown.

This discussion item gives the Council the opportunity to further discuss Rules and Regulations regarding Food Trucks to ensure nothing further is needed for the remainder of the City, after the final passage of Ordinance No. 38-21.

Attached are previous proposed ordinances that failed to reach final approval. Please keep in mind that these were drafted prior to FS 509.102.

PRIOR ACTION:

October 8, 2015 - City Council approved Proposed Ordinance No. 22-15 on first reading.

November 12, 2015 - City Council failed to adopt Proposed Ordinance No. 22-15 on second reading.

January 11, 2016 - City Council approved Proposed Ordinance No. 05-16 on first reading.

February 11, 2016 - City Council failed to adopt Proposed Ordinance No. 05-16 on second reading.

May 12, 2016 - Proposed Ordinance No.16-16 died for lack of second

September 9, 2021 - City Council approved Proposed Ordinance No. 38-21 on first reading.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Proposed Ordinance No. 16-16 - Food Trucks
- 2) Proposed Ordinance Compromise - Food Truck Rev 11-19-15 with staff revisions

PRESENTATION: No

Report of City Council Action Items

May 12, 2016

Members Present: Council President Charles Bare, Council Vice President Brian Spencer, Jewel Cannada-Wynn, Larry B. Johnson, Sherri Myers, Andy Terhaar, Gerald Wingate, and P. C. Wu

Absent: None



CONSENT AGENDA ITEMS

None

REGULAR AGENDA ITEMS

1. PUBLIC HEARING: COMPREHENSIVE PLAN ZONING AND FUTURE LAND USE MAP AMENDMENTS – TANYARD AND SANDERS BEACH NEIGHBORHOODS, AND COMPLETION OF REMAINING AREAS

That City Council conduct the second of two public hearings on May 12, 2016 to consider the proposed Zoning and Future Land Use Map Amendment. – **MOTION TO APPROVE EXCEPTING THE FOLLOWING PARCELS LOCATED: 2400 Block North Palafox Street (Block 41 of Belmont Tract) remain M-1; 1203 West Government Street remain C-3; 1011 West Intendencia Street (grandfathering language to be provided to allow development of two (2) single family dwellings); and 905 West Government Street, 115 South E Street, 1101 West Romana Street, and 118 South E Street (properties within the Westside CRA boundary) be excluded from proposed rezoning.**

The motion passed 6 - 1. Council Member Wingate dissenting; and Council Member Terhaar abstaining.

2. PUBLIC HEARING: REQUEST TO VACATE RIGHT-OF-WAY – 1400 EAST BOBE STREET

That City Council conduct a public hearing on May 12, 2016 to consider the request to vacate a portion of the 14th Avenue right of way adjacent to property located at 1400 East Bobe Street. – **MOTION TO APPROVE - - as recommended by the Planning Board with the provision of being subject to an easement being granted by the adjacent property owner which has been provided by the applicant.**

The motion passed unanimously.

PROPOSED ORDINANCE NO. 15-16 – 1ST READING – **MOTION TO APPROVE**

AN ORDINANCE CLOSING, ABANDONING AND VACATING A PORTION OF THE 14TH AVENUE RIGHT OF WAY; IN PENSACOLA, ESCAMBIA COUNTY, STATE OF FLORIDA; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

The motion passed unanimously.

3. APPOINTMENT – PLANNING BOARD – LICENSED ARCHITECT

City Council appointed Danny Grundhoefer a licensed architect, who is also a resident of the city or owner of property in the city, to the Planning Board to fill the unexpired term of Scott Sallis, expiring July 14, 2017.

The motion by acclamation passed unanimously.

4. FOOD TRUCKS

That City Council adopt an ordinance creating Chapter 7-12 and Section 7-12-1 of the Code, establishing a permit process and regulations for the operation of food trucks within the City of Pensacola.

The motion died due to lack of a second.

*****THE FOLLOWING ORDINANCE WAS PULLED DUE TO LACK OF SECOND ABOVE*****

PROPOSED ORDINANCE NO. 16-16

AN ORDINANCE CREATING CHAPTER 7-12 AND SECTION 7-12-1 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ESTABLISHING REGULATIONS FOR THE OPERATION OF MOBILE FOOD DISPENSING VEHICLES; CREATING A MOBILE FOOD ESTABLISHMENT PERMIT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

COUNCIL MEMORANDUM

Council Meeting Date: May 12, 2016



LEGISLATIVE ACTION ITEM

REVISED

SPONSOR: City Council President Charles Bare

SUBJECT: Food Trucks

RECOMMENDATION:

That City Council adopt an ordinance creating Chapter 7-12 and Section 7-12-1 of the Code, establishing a permit process and regulations for the operation of food trucks within the City of Pensacola.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

The regulation of food trucks in the City of Pensacola has been the subject of Council discussion numerous times over the past three years. After an unsuccessful pilot program and several attempts to pass an ordinance, the primary friction points revolve around where vehicles may park along the right of way and a proposed buffer zone around brick and mortar restaurants. In an effort to successfully provide a method to regulate food trucks while avoiding the challenges incurred in the right of way, the proposed ordinance allows the placement of food trucks only on public property or on private property within all zoning districts allowing commercial or retail uses or restaurants and bars. Under this ordinance, food trucks would not be allowed in the right of way without a special events permit.

The proposed ordinance provides a methodology for regulation that encourages food trucks on both public lands such as parks, as well as private property including parking lots. It specifies fees, an inspection and permitting process and rules for food truck operation similar to previous proposed ordinances. **The proposed ordinance has been revised to include a provision for the vending of products from a Food truck on public property.**

This ordinance provides the entry point to food truck regulation in our city while alleviating the concerns brought up during previous debates.

PRIOR ACTION:

Council previously approved Proposed Ordinance No. 22-15, on first reading, as amended at the October 8, 2015 City Council meeting. City Council failed to adopt Proposed Ordinance No. 22-15 at the November 12, 2015 City Council meeting and failed to approve a motion to schedule a workshop to consider an ordinance regulating food trucks at the December 9, 2015 City Council Meeting. Council approved Proposed Ordinance No. 05-16,

Council Memorandum
Subject: Food Trucks
Council Meeting Date: May 12, 2016
Page 2

PRIOR ACTION: (CONT'D)

on first reading, at the January 11, 2016 City Council Meeting. City Council failed to adopt Proposed Ordinance No. 05-16, as amended on second reading at the February 11, 2016 City Council Meeting.

FUNDING:

Budget: \$0
Actual: \$0

FINANCIAL IMPACT:

To be determined

STAFF CONTACT:

None

ATTACHMENTS:

1) Proposed Ordinance

PRESENTATION: Yes No

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING CHAPTER 7-12 AND SECTION 7-12-1 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ESTABLISHING REGULATIONS FOR THE OPERATION OF MOBILE FOOD DISPENSING VEHICLES; CREATING A MOBILE FOOD ESTABLISHMENT PERMIT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 7-12-1 of the Code of the City of Pensacola, Florida, pertaining to mobile food dispensing vehicles, is hereby created to read:

Sec. 7-12-1. Mobile food dispensing vehicles.

(A) *Purpose.* To establish definitions and appropriate standards for mobile food dispensing vehicles, allowing for the typical range of activities while mitigating any associated undesirable impacts.

(B) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this section:

Mobile food dispensing vehicle, for the purpose of this section, is defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Food truck, for the purpose of this section, includes both Food Trucks and Food Trailers, and is defined as any motorized or non-motorized vehicle that fulfills the definition for "Mobile Food Dispensing Vehicle", excluding Food Carts, Hot Dog Carts, or Theme Park Food Carts, as defined by both the Florida Department of Business and Professional Regulation and the State of Florida Division of Hotels and Restaurants Rule 61C-4.0161.

Permit for the purpose of this section, refers to the Mobile Food Establishment Permit, unless otherwise specified.

DBPR, for the purpose of this section, refers to the State of Florida's Department of Business and Professional Regulation.

Commissary means a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease and does not include the use of a private home as a commissary, as defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Vend means to sell or offer to sell products from a mobile food dispensing vehicle.

(C) *Mobile Food Establishment Permit.*

(1) *Applicability.* A Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from a motorized or non-motorized Food Truck in the City of Pensacola, in compliance with City and State Codes and Ordinances, and as specified within the approved terms and use of the permit as defined in this section.

(2) *Application.* An application shall include the following information:

- (a) Copy of applicant's valid Florida Driver's License;
- (b) Copy of the food truck's valid registration with the Florida Department of Motor Vehicles;
- (c) A certificate of general liability insurance in the amount of \$500,000 naming the City of Pensacola as an insured party;
- (d) Proof of commercial automobile insurance for the food truck.
- (e) Two photographs of the food truck, as close to the vehicle as possible and which when combined show a clear, unobstructed 360 degree view of the entire vehicle
- (f) All required approvals, inspections, and certificates;
 - (1) Florida Department of Business and Professional Regulation Division of Hotel and Restaurants
 - (2) Fire Department
- (g) Copy of completed DBPR form HR-7022 Commissary Notification, as on file with DBPR;
- (h) Application for Business License/Tax Receipt, to be issued concurrently with the Mobile Food Establishment Permit, contingent on approval of Permit.

(3) *Scope of Approval.* The Mayor or his or her designee shall have a maximum of fourteen (14) business days to process applications. If approved, a permit may not become active until the permit fee is paid and the permittee has met all other conditions set forth in this section. The permittee will be issued the Mobile Food Establishment Permit concurrently with a Business License/Tax Receipt. The Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from mobile food trucks in compliance with City Code and as specified on the permit, as set forth in this section.

(4) *Term and Renewal.* Mobile Food Establishment Permits shall expire at midnight on September 30, but may be renewed on an annual basis. Renewal of a Permit will be subject to resubmittal of application as set forth in this section.

(5) *Fees.*

(a) *City of Pensacola.* There shall be a nonrefundable fee for a City of Pensacola Mobile Food Establishment Permit of \$250.00 per annum. The permit will be prorated for new permittees, one time only and on a monthly basis, depending on which calendar month the permit fee is paid, at a minimum pro rata of six (6) months. The fee for renewals of existing permits will not be prorated.

A Mobile Food Establishment Permit is not required when participating in a special event which is permitted through a separate process.

(b) *Outside Agencies.* The Pensacola Mobile Food Establishment Permit does not indemnify or guarantee the permittee against any other restrictions or fees that may be assessed within the permit area from agencies or entities entitled to do so, outside of the purview of the City of Pensacola. The Mayor or his or her designee reserve the right to waive only any fees payable to the City of Pensacola in relation to the Mobile Food Establishment Permit, as part of any open enrollment incentive program offered to permittees.

(6) *Transferability.* Ownership of a Mobile Food Establishment Permit shall not be transferrable.

(7) *Denial, suspension or revocation of permit: due process procedure.* Permits may be denied, suspended or revoked as provided herein. The Mayor or his designee shall provide due process to applicants and permit holders by providing them, in writing, a notice of the proposed action he is intending to take, and an identification of the reasons therefor. The Mayor or his designee shall also provide a reasonable opportunity for the applicant or permit holder to meet or supply a written statement in order to state the applicant or permit holder's position as to why the proposed action should not be taken. The Mayor or his designee shall provide his final decision in writing. Upon denial, suspension or revocation of the permit, the Mayor or his or her designee shall deliver notice within three (3) business days of such action to the permittee in writing, specifically citing any violated terms or conditions of the permit, as set forth in this section. The action shall be effective immediately upon receipt of notice. In the case of a denial, suspension, or revocation of permit, there shall be no full or partial refund of the annual permit fee or any other fees paid to the city for operation of a mobile food dispensing vehicle.

(a) *Suspension.* A Mobile Food Establishment Permit may be suspended for a period of up to thirty (30) days. Notice shall be given to permittee and will provide specific instructions of corrective action, if applicable, that may be required before the conclusion of the suspension period. Suspended permits must be restored to active status within the thirty (30) day period or shall automatically transfer to a status of revocation at that time. A permit issued under this section may be suspended by the city for any of the following reasons:

- (1) Any required business permit, health permit, or business tax receipt for the mobile food dispensing vehicle is not displayed or has expired, been suspended, revoked or canceled.
- (2) The permittee does not have insurance in effect or proof thereof which complies with the minimum amounts and requirements described in this section.
- (3) The permittee refuses or delays without just cause the City's right to inspection.
- (4) Interfering with the normal use of the right-of-way.
- (5) Conducting business as a Permittee or as a responsible party under this section in an unlawful manner which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace.
- (6) Failure to adhere to all terms and conditions of the Mobile Food Establishment Permit, as set forth in this section.

(b) *Revocation.* A permit issued under this section may be revoked by the city for any of the following reasons:

- (1) Vending while under any of the terms of a suspension shall constitute an automatic revocation of the permit extending for no less than 180 days and until the following permit period beginning on October 1st.
- (2) Any violation of law by the permittee or permittee's responsible party, by an action or by neglect, either foreseeable or preventable which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace. Examples include but are not limited to: acts of violence, harassment, lewd or lascivious behavior, reckless endangerment, willful negligence of safety precautions or procedures.
- (3) Any multiple instances that establish a pattern of non-compliance by the permittee to the terms and conditions of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C- 4.010, 61C-4.0161, and 61C-4.023.
- (4) Inaccurate or falsified information found as part of Permittee's application for Permit.

(c) *Denial.* A Mobile Food Establishment Permit can be denied to any permittee under the following circumstances:

- (1) The permittee fails to meet all the requirements of application as described in this section or fails to agree to the terms and conditions of the permit.
 - (2) Inaccurate or falsified information found as part of applicant's application for permit.
 - (3) If after the revocation of a Mobile Food Establishment Permit, the permittee demonstrates any further non-compliance to the terms of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C-4.010, 61C-4.0161, and 61C-4.023.
- (d) *Appeal.* Decisions of the Mayor or his or her designee to deny, suspend or revoke a permit may be appealed to the City Council, whose decision shall be deemed the final decision of the city. Appeals must be submitted to the Office of the City Council no later than twenty-one (21) days prior to the next regularly scheduled meeting of the Council.
- (e) *Amendment.* The Mayor or his or her designee reserve the right to petition the City Council to amend policies, procedures, terms, and conditions of the Mobile Food Establishment Permit as needed. Any changes to the Permit terms and conditions shall be voted on and approved by City Council prior to execution.

(D) Inspection and identification.

- (1) *Inspection.* The Mayor or his or her designees reserve the right of inspection of all food trucks with a Mobile Food Establishment Permit operating in the City of Pensacola. Permittees will be required to subject the food truck to inspection for the purpose and limited basis of determining permit compliance. The City of Pensacola's process of inspection shall be implemented in the most systematic, efficient way deemed possible by the Mayor's office, with the goal of mitigating any associated undesirable impacts to the City, the permittee, and the general public. A checklist and inspection report will be made available to the permittee upon completion of any inspection.
- (2) *Identification.* Each Food Truck shall prominently display the appropriate business tax receipt, state license and county health certificate, and the Mobile Food Establishment Permit, as follows:
 - (a) The business tax receipt and county health certificate should be prominently displayed within the food truck. The VIN number of the food truck shall match the VIN number on the approved Mobile Food Establishment Permit application and business tax receipt.
 - (b) The Florida Department of Business and Professional Regulation permit should be affixed on the exterior of the vehicle, in plain sight of view.
 - (c) The Mobile Food Establishment Permit should be affixed directly adjacent to the DBPR permit.

- (d) The business name and state license number should be prominently displayed and affixed to the food truck, in at least two inch letters and in a contrasting color to the background, as required by the Department of Business and Professional Regulation.
- (e) Any structural or aesthetic modifications made to the food truck after initial application approval must comply with City Code. New photographs must be taken and submitted to the Mayor's office within three days of any modifications.

(E) *Restrictions.* The following restrictions apply to the Mobile Food Establishment Permit:

- (1) A food truck shall not operate:
 - (a) In any public right of way;
 - (b) Within 3 feet of any public or private driveway, wheelchair ramp or bicycle ramp;
 - (c) Adjacent to or impeding upon any previously obtained License to Use (LTU);
 - (d) In commercial loading zones;
 - (e) On any public street or roadway.
- (2) Food trucks shall not be in operation while in motion. Before moving, all equipment must be shut off and secured for transport, portable generators must be shut off and disconnected.
- (3) No vendor may sell alcoholic beverages, controlled substances, or any other illegal item.
- (4) All vendors must provide an appropriately sized trash receptacle within ten (10) feet of the food truck, subject to additional terms set forth in this section. Permittees, their respective agents and employees shall not utilize public trash receptacles for disposal of trash or refuse generated during operation.
- (5) Amplified music or other sounds from any Food Truck shall comply with the noise requirements in Section 8-1-16 of this Code.
- (6) Open flame cooking is prohibited; except that such activity may take place if permitted by the fire department.
- (7) All food trucks shall maintain at all times an updated and current commissary agreement with a state licensed facility, for the proper disposal of grease and wastewater, available upon request by the city.
- (8) Food trucks shall comply with all state and local business tax regulations.
- (9) Food trucks shall not cook or maintain a heat source when the vehicle is positioned less than 10 feet from any structure, overhand or awning.
- (10) Food truck operators shall at all times obey the directions given by public safety or law enforcement personnel.

(F) *Exclusions.* Mobile Food Dispensing Vehicles authorized to operate at special events as set forth in Chapter 11-4, Article VI of this Code are allowed without a Mobile Food Establishment Permit. Special Events are permitted though a separate process as set forth in that section.

This section shall not apply to pushcart vending, hot dog carts, theme park carts, and other food carts. Cart operations and food truck operations will be considered separate and unique entities. Cart operations are not authorized by use of the City of Pensacola Mobile Food Establishment Permit, but are subject to Section 12-12-7 of this Code.

This section shall not apply to roadside vending markets or vending on city-owned park property which is subject to other regulations.

(G) *Private property.* The vending of products from a Food truck on private property within all zoning districts allowing commercial or retail uses or restaurants and bars shall be allowed, subject to the following conditions:

(1) Food trucks must have the written permission of the owner of the property on which they are located. Written permission shall be provided to the Mayor's office prior to operation on any private property, using the city-approved form.

(2) Food trucks are prohibited on undeveloped property.

(H) *Public Property.* The vending of products from a Food truck on City Owned property shall be allowed with the approval of the Mayor.

(I) *Environmental Considerations.* Food trucks shall operate responsibly and ethically in the reduction and mitigation of negative environmental impacts due to a food truck business operation. Combustible or toxic materials shall be stored properly in original or otherwise approved containers, separate from food service areas.

(J) *Insurance requirements.* A food truck shall obtain at a minimum the insurance as required by any local, state, or federal laws and regulations.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Passed: _____

Approved: _____
President of City Council

Attest:

City Clerk

COUNCIL MEMORANDUM

Council Meeting Date: May 12, 2016



LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Charles Bare

SUBJECT: Food Trucks

RECOMMENDATION:

That City Council adopt an ordinance creating Chapter 7-12 and Section 7-12-1 of the Code, establishing a permit process and regulations for the operation of food trucks within the City of Pensacola.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

The regulation of food trucks in the City of Pensacola has been the subject of Council discussion numerous times over the past three years. After an unsuccessful pilot program and several attempts to pass an ordinance, the primary friction points revolve around where vehicles may park along the right of way and a proposed buffer zone around brick and mortar restaurants. In an effort to successfully provide a method to regulate food trucks while avoiding the challenges incurred in the right of way, the proposed ordinance allows the placement of food trucks only on public property or on private property within all zoning districts allowing commercial or retail uses or restaurants and bars. Under this ordinance, food trucks would not be allowed in the right of way without a special events permit.

The proposed ordinance provides a methodology for regulation that encourages food trucks on both public lands such as parks, as well as private property including parking lots. It specifies fees, an inspection and permitting process and rules for food truck operation similar to previous proposed ordinances.

This ordinance provides the entry point to food truck regulation in our city while alleviating the concerns brought up during previous debates.

PRIOR ACTION:

Council previously approved Proposed Ordinance No. 22-15, on first reading, as amended at the October 8, 2015 City Council meeting. City Council failed to adopt Proposed Ordinance No. 22-15 at the November 12, 2015 City Council meeting and failed to approve a motion to schedule a workshop to consider an ordinance regulating food trucks at the December 9, 2015 City Council Meeting. Council approved Proposed Ordinance No. 05-16,

Council Memorandum
Subject: Food Trucks
Council Meeting Date: May 12, 2016
Page 2

PRIOR ACTION: (CONT'D)

on first reading, at the January 11, 2016 City Council Meeting. City Council failed to adopt Proposed Ordinance No. 05-16, as amended on second reading at the February 11, 2016 City Council Meeting.

FUNDING:

Budget: \$0
Actual: \$0

FINANCIAL IMPACT:

To be determined

STAFF CONTACT:

None

ATTACHMENTS:

1) Proposed Ordinance

PRESENTATION: Yes No

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING CHAPTER 7-12 AND SECTION 7-12-1 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ESTABLISHING REGULATIONS FOR THE OPERATION OF MOBILE FOOD DISPENSING VEHICLES; CREATING A MOBILE FOOD ESTABLISHMENT PERMIT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 7-12-1 of the Code of the City of Pensacola, Florida, pertaining to mobile food dispensing vehicles, is hereby created to read:

Sec. 7-12-1. Mobile food dispensing vehicles.

(A) *Purpose.* To establish definitions and appropriate standards for mobile food dispensing vehicles, allowing for the typical range of activities while mitigating any associated undesirable impacts.

(B) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this section:

Mobile food dispensing vehicle, for the purpose of this section, is defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Food truck, for the purpose of this section, includes both Food Trucks and Food Trailers, and is defined as any motorized or non-motorized vehicle that fulfills the definition for "Mobile Food Dispensing Vehicle", excluding Food Carts, Hot Dog Carts, or Theme Park Food Carts, as defined by both the Florida Department of Business and Professional Regulation and the State of Florida Division of Hotels and Restaurants Rule 61C-4.0161.

Permit for the purpose of this section, refers to the Mobile Food Establishment Permit, unless otherwise specified.

DBPR, for the purpose of this section, refers to the State of Florida's Department of Business and Professional Regulation.

Commissary means a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease and does not include the use

of a private home as a commissary, as defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Vend means to sell or offer to sell products from a mobile food dispensing vehicle.

(C) *Mobile Food Establishment Permit.*

(1) *Applicability.* A Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from a motorized or non-motorized Food Truck in the City of Pensacola, in compliance with City and State Codes and Ordinances, and as specified within the approved terms and use of the permit as defined in this section.

(2) *Application.* An application shall include the following information:

(a) Copy of applicant's valid Florida Driver's License;

(b) Copy of the food truck's valid registration with the Florida Department of Motor Vehicles;

(c) A certificate of general liability insurance in the amount of \$500,000 naming the City of Pensacola as an insured party;

(d) Proof of commercial automobile insurance for the food truck.

(e) Two photographs of the food truck, as close to the vehicle as possible and which when combined show a clear, unobstructed 360 degree view of the entire vehicle

(f) All required approvals, inspections, and certificates;

(1) Florida Department of Business and Professional Regulation Division of Hotel and Restaurants

(2) Fire Department

(g) Copy of completed DBPR form HR-7022 Commissary Notification, as on file with DBPR;

(h) Application for Business License/Tax Receipt, to be issued concurrently with the Mobile Food Establishment Permit, contingent on approval of Permit.

(3) *Scope of Approval.* The Mayor or his or her designee shall have a maximum of fourteen (14) business days to process applications. If approved, a permit may not become active until the permit fee is paid and the permittee has met all other conditions set forth in this section. The permittee will be issued the Mobile Food Establishment Permit concurrently with a Business License/Tax Receipt. The Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from mobile food trucks in compliance with City Code and as specified on the permit, as set forth in this section.

(4) *Term and Renewal.* Mobile Food Establishment Permits shall expire at midnight on September 30, but may be renewed on an annual basis. Renewal of a Permit will be subject to resubmittal of application as set forth in this section.

(5) *Fees.*

(a) *City of Pensacola.* There shall be a nonrefundable fee for a City of Pensacola Mobile Food Establishment Permit of \$250.00 per annum. The permit will be prorated for new permittees, one time only and on a monthly basis, depending on which calendar month the permit fee is paid, at a minimum pro rata of six (6) months. The fee for renewals of existing permits will not be prorated.

A Mobile Food Establishment Permit is not required when participating in a special event which is permitted through a separate process.

(b) *Outside Agencies.* The Pensacola Mobile Food Establishment Permit does not indemnify or guarantee the permittee against any other restrictions or fees that may be accessed within the permit area from agencies or entities entitled to do so, outside of the purview of the City of Pensacola. The Mayor or his or her designee reserve the right to waive only any fees payable to the City of Pensacola in relation to the Mobile Food Establishment Permit, as part of any open enrollment incentive program offered to permittees.

(6) *Transferability.* Ownership of a Mobile Food Establishment Permit shall not be transferrable.

(7) *Denial, suspension or revocation of permit: due process procedure.* Permits may be denied, suspended or revoked as provided herein. The Mayor or his designee shall provide due process to applicants and permit holders by providing them, in writing, a notice of the proposed action he is intending to take, and an identification of the reasons therefor. The Mayor or his designee shall also provide a reasonable opportunity for the applicant or permit holder to meet or supply a written statement in order to state the applicant or permit holder's position as to why the proposed action should not be taken. The Mayor or his designee shall provide his final decision in writing. Upon denial, suspension or revocation of the permit, the Mayor or his or her designee shall deliver notice within three (3) business days of such action to the permittee in writing, specifically citing any violated terms or conditions of the permit, as set forth in this section. The action shall be effective immediately upon receipt of notice. In the case of a denial, suspension, or revocation of permit, there shall be no full or partial refund of the annual permit fee or any other fees paid to the city for operation of a mobile food dispensing vehicle.

(a) *Suspension.* A Mobile Food Establishment Permit may be suspended for a period of up to thirty (30) days. Notice shall be given to permittee and will provide specific instructions of corrective action, if applicable, that may be required before the conclusion of the suspension period. Suspended permits must be restored to active status within the thirty (30) day period or shall automatically

transfer to a status of revocation at that time. A permit issued under this section may be suspended by the city for any of the following reasons:

- (1) Any required business permit, health permit, or business tax receipt for the mobile food dispensing vehicle is not displayed or has expired, been suspended, revoked or canceled.
- (2) The permittee does not have insurance in effect or proof thereof which complies with the minimum amounts and requirements described in this section.
- (3) The permittee refuses or delays without just cause the City's right to inspection.
- (4) Interfering with the normal use of the right-of-way.
- (5) Conducting business as a Permittee or as a responsible party under this section in an unlawful manner which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace.
- (6) Failure to adhere to all terms and conditions of the Mobile Food Establishment Permit, as set forth in this section.

(b) *Revocation.* A permit issued under this section may be revoked by the city for any of the following reasons:

- (1) Vending while under any of the terms of a suspension shall constitute an automatic revocation of the permit extending for no less than 180 days and until the following permit period beginning on October 1st.
- (2) Any violation of law by the permittee or permittee's responsible party, by an action or by neglect, either foreseeable or preventable which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace. Examples include but are not limited to: acts of violence, harassment, lewd or lascivious behavior, reckless endangerment, willful negligence of safety precautions or procedures.
- (3) Any multiple instances that establish a pattern of non-compliance by the permittee to the terms and conditions of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C- 4.010, 61C-4.0161, and 61C-4.023.
- (4) Inaccurate or falsified information found as part of Permittee's application for Permit.

(c) *Denial.* A Mobile Food Establishment Permit can be denied to any permittee under the following circumstances:

- (1) The permittee fails to meet all the requirements of application as described in this section or fails to agree to the terms and conditions of the permit.
- (2) Inaccurate or falsified information found as part of applicant's application for permit.
- (3) If after the revocation of a Mobile Food Establishment Permit, the permittee demonstrates any further non-compliance to the terms of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C-4.010, 61C-4.0161, and 61C-4.023.

(d) *Appeal.* Decisions of the Mayor or his or her designee to deny, suspend or revoke a permit may be appealed to the City Council, whose decision shall be deemed the final decision of the city. Appeals must be submitted to the Office of the City Council no later than twenty-one (21) days prior to the next regularly scheduled meeting of the Council.

(e) *Amendment.* The Mayor or his or her designee reserve the right to petition the City Council to amend policies, procedures, terms, and conditions of the Mobile Food Establishment Permit as needed. Any changes to the Permit terms and conditions shall be voted on and approved by City Council prior to execution.

(D) *Inspection and identification.*

(1) *Inspection.* The Mayor or his or her designees reserve the right of inspection of all food trucks with a Mobile Food Establishment Permit operating in the City of Pensacola. Permittees will be required to subject the food truck to inspection for the purpose and limited basis of determining permit compliance. The City of Pensacola's process of inspection shall be implemented in the most systematic, efficient way deemed possible by the Mayor's office, with the goal of mitigating any associated undesirable impacts to the City, the permittee, and the general public. A checklist and inspection report will be made available to the permittee upon completion of any inspection.

(2) *Identification.* Each Food Truck shall prominently display the appropriate business tax receipt, state license and county health certificate, and the Mobile Food Establishment Permit, as follows:

- (a) The business tax receipt and county health certificate should be prominently displayed within the food truck. The VIN number of the food truck shall match the VIN number on the approved Mobile Food Establishment Permit application and business tax receipt.

- (b) The Florida Department of Business and Professional Regulation permit should be affixed on the exterior of the vehicle, in plain sight of view.
- (c) The Mobile Food Establishment Permit should be affixed directly adjacent to the DBPR permit.
- (d) The business name and state license number should be prominently displayed and affixed to the food truck, in at least two inch letters and in a contrasting color to the background, as required by the Department of Business and Professional Regulation.
- (e) Any structural or aesthetic modifications made to the food truck after initial application approval must comply with City Code. New photographs must be taken and submitted to the Mayor's office within three days of any modifications.

(E) *Restrictions.* The following restrictions apply to the Mobile Food Establishment Permit:

- (1) A food truck shall not operate:
 - (a) In any public right of way;
 - (b) Within 3 feet of any public or private driveway, wheelchair ramp or bicycle ramp;
 - (c) Adjacent to or impeding upon any previously obtained License to Use (LTU);
 - (d) In commercial loading zones;
 - (e) On any public street or roadway.
- (2) Food trucks shall not be in operation while in motion. Before moving, all equipment must be shut off and secured for transport, portable generators must be shut off and disconnected.
- (3) No vendor may sell alcoholic beverages, controlled substances, or any other illegal item.
- (4) All vendors must provide an appropriately sized trash receptacle within ten (10) feet of the food truck, subject to additional terms set forth in this section. Permittees, their respective agents and employees shall not utilize public trash receptacles for disposal of trash or refuse generated during operation.
- (5) Amplified music or other sounds from any Food Truck shall comply with the noise requirements in Section 8-1-16 of this Code.
- (6) Open flame cooking is prohibited; except that such activity may take place if permitted by the fire department.
- (7) All food trucks shall maintain at all times an updated and current commissary agreement with a state licensed facility, for the proper disposal of grease and wastewater, available upon request by the city.
- (8) Food trucks shall comply with all state and local business tax regulations.

(9) Food trucks shall not cook or maintain a heat source when the vehicle is positioned less than 10 feet from any structure, overhand or awning.

(10) Food truck operators shall at all times obey the directions given by public safety or law enforcement personnel.

(F) *Exclusions.* Mobile Food Dispensing Vehicles authorized to operate at special events as set forth in Chapter 11-4, Article VI of this Code are allowed without a Mobile Food Establishment Permit. Special Events are permitted through a separate process as set forth in that section.

This section shall not apply to pushcart vending, hot dog carts, theme park carts, and other food carts. Cart operations and food truck operations will be considered separate and unique entities. Cart operations are not authorized by use of the City of Pensacola Mobile Food Establishment Permit, but are subject to Section 12-12-7 of this Code.

This section shall not apply to roadside vending markets or vending on city-owned park property which is subject to other regulations.

(G) *Private property.* The vending of products from a Food truck on private property within all zoning districts allowing commercial or retail uses or restaurants and bars shall be allowed, subject to the following conditions:

(1) Food trucks must have the written permission of the owner of the property on which they are located. Written permission shall be provided to the Mayor's office prior to operation on any private property, using the city-approved form.

(2) Food trucks are prohibited on undeveloped property.

(H) *Environmental Considerations.* Food trucks shall operate responsibly and ethically in the reduction and mitigation of negative environmental impacts due to a food truck business operation. Combustible or toxic materials shall be stored properly in original or otherwise approved containers, separate from food service areas.

(I) *Insurance requirements.* A food truck shall obtain at a minimum the insurance as required by any local, state, or federal laws and regulations.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Passed: _____

Approved: _____
President of City Council

Attest:

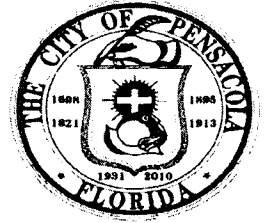
City Clerk

Report of City Council Action Items

May 12, 2016

Members Present: Council President Charles Bare, Council Vice President Brian Spencer, Jewel Cannada-Wynn, Larry B. Johnson, Sherri Myers, Andy Terhaar, Gerald Wingate, and P. C. Wu

Absent: None



CONSENT AGENDA ITEMS

None

REGULAR AGENDA ITEMS

1. PUBLIC HEARING: COMPREHENSIVE PLAN ZONING AND FUTURE LAND USE MAP AMENDMENTS – TANYARD AND SANDERS BEACH NEIGHBORHOODS, AND COMPLETION OF REMAINING AREAS

That City Council conduct the second of two public hearings on May 12, 2016 to consider the proposed Zoning and Future Land Use Map Amendment. – **MOTION TO APPROVE EXCEPTING THE FOLLOWING PARCELS LOCATED: 2400 Block North Palafox Street (Block 41 of Belmont Tract) remain M-1; 1203 West Government Street remain C-3; 1011 West Intendencia Street (grandfathering language to be provided to allow development of two (2) single family dwellings); and 905 West Government Street, 115 South E Street, 1101 West Romana Street, and 118 South E Street (properties within the Westside CRA boundary) be excluded from proposed rezoning.**

The motion passed 6 - 1. Council Member Wingate dissenting; and Council Member Terhaar abstaining.

2. PUBLIC HEARING: REQUEST TO VACATE RIGHT-OF-WAY – 1400 EAST BOBE STREET

That City Council conduct a public hearing on May 12, 2016 to consider the request to vacate a portion of the 14th Avenue right of way adjacent to property located at 1400 East Bobe Street. – **MOTION TO APPROVE - - as recommended by the Planning Board with the provision of being subject to an easement being granted by the adjacent property owner which has been provided by the applicant.**

The motion passed unanimously.

PROPOSED ORDINANCE NO. 15-16 – 1ST READING – **MOTION TO APPROVE**

AN ORDINANCE CLOSING, ABANDONING AND VACATING A PORTION OF THE 14TH AVENUE RIGHT OF WAY; IN PENSACOLA, ESCAMBIA COUNTY, STATE OF FLORIDA; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

The motion passed unanimously.

3. APPOINTMENT – PLANNING BOARD – LICENSED ARCHITECT

City Council appointed Danny Grundhoefer a licensed architect, who is also a resident of the city or owner of property in the city, to the Planning Board to fill the unexpired term of Scott Sallis, expiring July 14, 2017.

The motion by acclamation passed unanimously.

4. FOOD TRUCKS

That City Council adopt an ordinance creating Chapter 7-12 and Section 7-12-1 of the Code, establishing a permit process and regulations for the operation of food trucks within the City of Pensacola.

The motion died due to lack of a second.

*****THE FOLLOWING ORDINANCE WAS PULLED DUE TO LACK OF SECOND ABOVE*****

PROPOSED ORDINANCE NO. 16-16

AN ORDINANCE CREATING CHAPTER 7-12 AND SECTION 7-12-1 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ESTABLISHING REGULATIONS FOR THE OPERATION OF MOBILE FOOD DISPENSING VEHICLES; CREATING A MOBILE FOOD ESTABLISHMENT PERMIT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

COUNCIL MEMORANDUM

Council Meeting Date: May 12, 2016



LEGISLATIVE ACTION ITEM

REVISED

SPONSOR: City Council President Charles Bare

SUBJECT: Food Trucks

RECOMMENDATION:

That City Council adopt an ordinance creating Chapter 7-12 and Section 7-12-1 of the Code, establishing a permit process and regulations for the operation of food trucks within the City of Pensacola.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

The regulation of food trucks in the City of Pensacola has been the subject of Council discussion numerous times over the past three years. After an unsuccessful pilot program and several attempts to pass an ordinance, the primary friction points revolve around where vehicles may park along the right of way and a proposed buffer zone around brick and mortar restaurants. In an effort to successfully provide a method to regulate food trucks while avoiding the challenges incurred in the right of way, the proposed ordinance allows the placement of food trucks only on public property or on private property within all zoning districts allowing commercial or retail uses or restaurants and bars. Under this ordinance, food trucks would not be allowed in the right of way without a special events permit.

The proposed ordinance provides a methodology for regulation that encourages food trucks on both public lands such as parks, as well as private property including parking lots. It specifies fees, an inspection and permitting process and rules for food truck operation similar to previous proposed ordinances. **The proposed ordinance has been revised to include a provision for the vending of products from a Food truck on public property.**

This ordinance provides the entry point to food truck regulation in our city while alleviating the concerns brought up during previous debates.

PRIOR ACTION:

Council previously approved Proposed Ordinance No. 22-15, on first reading, as amended at the October 8, 2015 City Council meeting. City Council failed to adopt Proposed Ordinance No. 22-15 at the November 12, 2015 City Council meeting and failed to approve a motion to schedule a workshop to consider an ordinance regulating food trucks at the December 9, 2015 City Council Meeting. Council approved Proposed Ordinance No. 05-16,

Council Memorandum
Subject: Food Trucks
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PRIOR ACTION: (CONT'D)

on first reading, at the January 11, 2016 City Council Meeting. City Council failed to adopt Proposed Ordinance No. 05-16, as amended on second reading at the February 11, 2016 City Council Meeting.

FUNDING:

Budget: \$0
Actual: \$0

FINANCIAL IMPACT:

To be determined

STAFF CONTACT:

None

ATTACHMENTS:

1) Proposed Ordinance

PRESENTATION: Yes No

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING CHAPTER 7-12 AND SECTION 7-12-1
OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA;
ESTABLISHING REGULATIONS FOR THE OPERATION OF MOBILE
FOOD DISPENSING VEHICLES; CREATING A MOBILE FOOD
ESTABLISHMENT PERMIT; PROVIDING FOR SEVERABILITY;
REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 7-12-1 of the Code of the City of Pensacola, Florida, pertaining to
mobile food dispensing vehicles, is hereby created to read:

Sec. 7-12-1. Mobile food dispensing vehicles.

(A) *Purpose.* To establish definitions and appropriate standards for mobile food dispensing
vehicles, allowing for the typical range of activities while mitigating any associated undesirable
impacts.

(B) *Definitions.* The following definitions shall apply in the interpretation and enforcement of
this section:

Mobile food dispensing vehicle, for the purpose of this section, is defined by the State of
Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Food truck, for the purpose of this section, includes both Food Trucks and Food Trailers,
and is defined as any motorized or non-motorized vehicle that fulfills the definition for
“Mobile Food Dispensing Vehicle”, excluding Food Carts, Hot Dog Carts, or Theme
Park Food Carts, as defined by both the Florida Department of Business and Professional
Regulation and the State of Florida Division of Hotels and Restaurants Rule 61C-4.0161.

Permit for the purpose of this section, refers to the Mobile Food Establishment Permit,
unless otherwise specified.

DBPR, for the purpose of this section, refers to the State of Florida’s Department of
Business and Professional Regulation.

Commissary means a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease and does not include the use of a private home as a commissary, as defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Vend means to sell or offer to sell products from a mobile food dispensing vehicle.

(C) *Mobile Food Establishment Permit.*

(1) **Applicability.** A Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from a motorized or non-motorized Food Truck in the City of Pensacola, in compliance with City and State Codes and Ordinances, and as specified within the approved terms and use of the permit as defined in this section.

(2) **Application.** An application shall include the following information:

- (a) Copy of applicant's valid Florida Driver's License;
- (b) Copy of the food truck's valid registration with the Florida Department of Motor Vehicles;
- (c) A certificate of general liability insurance in the amount of \$500,000 naming the City of Pensacola as an insured party;
- (d) Proof of commercial automobile insurance for the food truck.
- (e) Two photographs of the food truck, as close to the vehicle as possible and which when combined show a clear, unobstructed 360 degree view of the entire vehicle
- (f) All required approvals, inspections, and certificates;

(1) Florida Department of Business and Professional Regulation Division of Hotel and Restaurants

(2) Fire Department

(g) Copy of completed DBPR form HR-7022 Commissary Notification, as on file with DBPR;

(h) Application for Business License/Tax Receipt, to be issued concurrently with the Mobile Food Establishment Permit, contingent on approval of Permit.

(3) *Scope of Approval.* The Mayor or his or her designee shall have a maximum of fourteen (14) business days to process applications. If approved, a permit may not become active until the permit fee is paid and the permittee has met all other conditions set forth in this section. The permittee will be issued the Mobile Food Establishment Permit concurrently with a Business License/Tax Receipt. The Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from mobile food trucks in compliance with City Code and as specified on the permit, as set forth in this section.

(4) *Term and Renewal.* Mobile Food Establishment Permits shall expire at midnight on September 30, but may be renewed on an annual basis. Renewal of a Permit will be subject to resubmittal of application as set forth in this section.

(5) *Fees.*

(a) *City of Pensacola.* There shall be a nonrefundable fee for a City of Pensacola Mobile Food Establishment Permit of \$250.00 per annum. The permit will be prorated for new permittees, one time only and on a monthly basis, depending on which calendar month the permit fee is paid, at a minimum pro rata of six (6) months. The fee for renewals of existing permits will not be prorated.

A Mobile Food Establishment Permit is not required when participating in a special event which is permitted through a separate process.

(b) *Outside Agencies.* The Pensacola Mobile Food Establishment Permit does not indemnify or guarantee the permittee against any other restrictions or fees that may be assessed within the permit area from agencies or entities entitled to do so, outside of the purview of the City of Pensacola. The Mayor or his or her designee reserve the right to waive only any fees payable to the City of Pensacola in relation to the Mobile Food Establishment Permit, as part of any open enrollment incentive program offered to permittees.

(6) *Transferability.* Ownership of a Mobile Food Establishment Permit shall not be transferrable.

(7) *Denial, suspension or revocation of permit: due process procedure.* Permits may be denied, suspended or revoked as provided herein. The Mayor or his designee shall provide due process to applicants and permit holders by providing them, in writing, a notice of the proposed action he is intending to take, and an identification of the reasons therefor. The Mayor or his designee shall also provide a reasonable opportunity for the applicant or permit holder to meet or supply a written statement in order to state the applicant or permit holder's position as to why the proposed action should not be taken. The Mayor or his designee shall provide his final decision in writing. Upon denial, suspension or revocation of the permit, the Mayor or his or her designee shall deliver notice within three (3) business days of such action to the permittee in writing, specifically citing any violated terms or conditions of the permit, as set forth in this section. The action shall be effective immediately upon receipt of notice. In the case of a denial, suspension, or revocation of permit, there shall be no full or partial refund of the annual permit fee or any other fees paid to the city for operation of a mobile food dispensing vehicle.

(a) *Suspension.* A Mobile Food Establishment Permit may be suspended for a period of up to thirty (30) days. Notice shall be given to permittee and will provide specific instructions of corrective action, if applicable, that may be required before the conclusion of the suspension period. Suspended permits must be restored to active status within the thirty (30) day period or shall automatically transfer to a status of revocation at that time. A permit issued under this section may be suspended by the city for any of the following reasons:

- (1) Any required business permit, health permit, or business tax receipt for the mobile food dispensing vehicle is not displayed or has expired, been suspended, revoked or canceled.
- (2) The permittee does not have insurance in effect or proof thereof which complies with the minimum amounts and requirements described in this section.
- (3) The permittee refuses or delays without just cause the City's right to inspection.
- (4) Interfering with the normal use of the right-of-way.
- (5) Conducting business as a Permittee or as a responsible party under this section in an unlawful manner which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace.
- (6) Failure to adhere to all terms and conditions of the Mobile Food Establishment Permit, as set forth in this section.

(b) *Revocation.* A permit issued under this section may be revoked by the city for any of the following reasons:

- (1) Vending while under any of the terms of a suspension shall constitute an automatic revocation of the permit extending for no less than 180 days and until the following permit period beginning on October 1st.
- (2) Any violation of law by the permittee or permittee's responsible party, by an action or by neglect, either foreseeable or preventable which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace. Examples include but are not limited to: acts of violence, harassment, lewd or lascivious behavior, reckless endangerment, willful negligence of safety precautions or procedures.
- (3) Any multiple instances that establish a pattern of non-compliance by the permittee to the terms and conditions of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C- 4.010, 61C-4.0161, and 61C-4.023.
- (4) Inaccurate or falsified information found as part of Permittee's application for Permit.

(c) *Denial.* A Mobile Food Establishment Permit can be denied to any permittee under the following circumstances:

- (1) The permittee fails to meet all the requirements of application as described in this section or fails to agree to the terms and conditions of the permit.
 - (2) Inaccurate or falsified information found as part of applicant's application for permit.
 - (3) If after the revocation of a Mobile Food Establishment Permit, the permittee demonstrates any further non-compliance to the terms of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C-4.010, 61C-4.0161, and 61C-4.023.
- (d) *Appeal.* Decisions of the Mayor or his or her designee to deny, suspend or revoke a permit may be appealed to the City Council, whose decision shall be deemed the final decision of the city. Appeals must be submitted to the Office of the City Council no later than twenty-one (21) days prior to the next regularly scheduled meeting of the Council.
- (e) *Amendment.* The Mayor or his or her designee reserve the right to petition the City Council to amend policies, procedures, terms, and conditions of the Mobile Food Establishment Permit as needed. Any changes to the Permit terms and conditions shall be voted on and approved by City Council prior to execution.

(D) *Inspection and identification.*

- (1) *Inspection.* The Mayor or his or her designees reserve the right of inspection of all food trucks with a Mobile Food Establishment Permit operating in the City of Pensacola. Permittees will be required to subject the food truck to inspection for the purpose and limited basis of determining permit compliance. The City of Pensacola's process of inspection shall be implemented in the most systematic, efficient way deemed possible by the Mayor's office, with the goal of mitigating any associated undesirable impacts to the City, the permittee, and the general public. A checklist and inspection report will be made available to the permittee upon completion of any inspection.
- (2) *Identification.* Each Food Truck shall prominently display the appropriate business tax receipt, state license and county health certificate, and the Mobile Food Establishment Permit, as follows:
 - (a) The business tax receipt and county health certificate should be prominently displayed within the food truck. The VIN number of the food truck shall match the VIN number on the approved Mobile Food Establishment Permit application and business tax receipt.
 - (b) The Florida Department of Business and Professional Regulation permit should be affixed on the exterior of the vehicle, in plain sight of view.
 - (c) The Mobile Food Establishment Permit should be affixed directly adjacent to the DBPR permit.

- (d) The business name and state license number should be prominently displayed and affixed to the food truck, in at least two inch letters and in a contrasting color to the background, as required by the Department of Business and Professional Regulation.
- (e) Any structural or aesthetic modifications made to the food truck after initial application approval must comply with City Code. New photographs must be taken and submitted to the Mayor's office within three days of any modifications.

(E) *Restrictions.* The following restrictions apply to the Mobile Food Establishment Permit:

- (1) A food truck shall not operate:
 - (a) In any public right of way;
 - (b) Within 3 feet of any public or private driveway, wheelchair ramp or bicycle ramp;
 - (c) Adjacent to or impeding upon any previously obtained License to Use (LTU);
 - (d) In commercial loading zones;
 - (e) On any public street or roadway.
- (2) Food trucks shall not be in operation while in motion. Before moving, all equipment must be shut off and secured for transport, portable generators must be shut off and disconnected.
- (3) No vendor may sell alcoholic beverages, controlled substances, or any other illegal item.
- (4) All vendors must provide an appropriately sized trash receptacle within ten (10) feet of the food truck, subject to additional terms set forth in this section. Permittees, their respective agents and employees shall not utilize public trash receptacles for disposal of trash or refuse generated during operation.
- (5) Amplified music or other sounds from any Food Truck shall comply with the noise requirements in Section 8-1-16 of this Code.
- (6) Open flame cooking is prohibited; except that such activity may take place if permitted by the fire department.
- (7) All food trucks shall maintain at all times an updated and current commissary agreement with a state licensed facility, for the proper disposal of grease and wastewater, available upon request by the city.
- (8) Food trucks shall comply with all state and local business tax regulations.
- (9) Food trucks shall not cook or maintain a heat source when the vehicle is positioned less than 10 feet from any structure, overhand or awning.
- (10) Food truck operators shall at all times obey the directions given by public safety or law enforcement personnel.

(F) *Exclusions.* Mobile Food Dispensing Vehicles authorized to operate at special events as set forth in Chapter 11-4, Article VI of this Code are allowed without a Mobile Food Establishment Permit. Special Events are permitted through a separate process as set forth in that section.

This section shall not apply to pushcart vending, hot dog carts, theme park carts, and other food carts. Cart operations and food truck operations will be considered separate and unique entities. Cart operations are not authorized by use of the City of Pensacola Mobile Food Establishment Permit, but are subject to Section 12-12-7 of this Code.

This section shall not apply to roadside vending markets or vending on city-owned park property which is subject to other regulations.

(G) *Private property.* The vending of products from a Food truck on private property within all zoning districts allowing commercial or retail uses or restaurants and bars shall be allowed, subject to the following conditions:

(1) Food trucks must have the written permission of the owner of the property on which they are located. Written permission shall be provided to the Mayor's office prior to operation on any private property, using the city-approved form.

(2) Food trucks are prohibited on undeveloped property.

(H) *Public Property.* The vending of products from a Food truck on City Owned property shall be allowed with the approval of the Mayor.

(I) *Environmental Considerations.* Food trucks shall operate responsibly and ethically in the reduction and mitigation of negative environmental impacts due to a food truck business operation. Combustible or toxic materials shall be stored properly in original or otherwise approved containers, separate from food service areas.

(J) *Insurance requirements.* A food truck shall obtain at a minimum the insurance as required by any local, state, or federal laws and regulations.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Passed: _____

Approved: _____
President of City Council

Attest:

City Clerk

COUNCIL MEMORANDUM

Council Meeting Date: May 12, 2016



LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Charles Bare

SUBJECT: Food Trucks

RECOMMENDATION:

That City Council adopt an ordinance creating Chapter 7-12 and Section 7-12-1 of the Code, establishing a permit process and regulations for the operation of food trucks within the City of Pensacola.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

The regulation of food trucks in the City of Pensacola has been the subject of Council discussion numerous times over the past three years. After an unsuccessful pilot program and several attempts to pass an ordinance, the primary friction points revolve around where vehicles may park along the right of way and a proposed buffer zone around brick and mortar restaurants. In an effort to successfully provide a method to regulate food trucks while avoiding the challenges incurred in the right of way, the proposed ordinance allows the placement of food trucks only on public property or on private property within all zoning districts allowing commercial or retail uses or restaurants and bars. Under this ordinance, food trucks would not be allowed in the right of way without a special events permit.

The proposed ordinance provides a methodology for regulation that encourages food trucks on both public lands such as parks, as well as private property including parking lots. It specifies fees, an inspection and permitting process and rules for food truck operation similar to previous proposed ordinances.

This ordinance provides the entry point to food truck regulation in our city while alleviating the concerns brought up during previous debates.

PRIOR ACTION:

Council previously approved Proposed Ordinance No. 22-15, on first reading, as amended at the October 8, 2015 City Council meeting. City Council failed to adopt Proposed Ordinance No. 22-15 at the November 12, 2015 City Council meeting and failed to approve a motion to schedule a workshop to consider an ordinance regulating food trucks at the December 9, 2015 City Council Meeting. Council approved Proposed Ordinance No. 05-16,

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Subject: Food Trucks
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PRIOR ACTION: (CONT'D)

on first reading, at the January 11, 2016 City Council Meeting. City Council failed to adopt Proposed Ordinance No. 05-16, as amended on second reading at the February 11, 2016 City Council Meeting.

FUNDING:

Budget: \$0
Actual: \$0

FINANCIAL IMPACT:

To be determined

STAFF CONTACT:

None

ATTACHMENTS:

1) Proposed Ordinance

PRESENTATION: Yes No

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING CHAPTER 7-12 AND SECTION 7-12-1 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ESTABLISHING REGULATIONS FOR THE OPERATION OF MOBILE FOOD DISPENSING VEHICLES; CREATING A MOBILE FOOD ESTABLISHMENT PERMIT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 7-12-1 of the Code of the City of Pensacola, Florida, pertaining to mobile food dispensing vehicles, is hereby created to read:

Sec. 7-12-1. Mobile food dispensing vehicles.

(A) *Purpose.* To establish definitions and appropriate standards for mobile food dispensing vehicles, allowing for the typical range of activities while mitigating any associated undesirable impacts.

(B) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this section:

Mobile food dispensing vehicle, for the purpose of this section, is defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Food truck, for the purpose of this section, includes both Food Trucks and Food Trailers, and is defined as any motorized or non-motorized vehicle that fulfills the definition for "Mobile Food Dispensing Vehicle", excluding Food Carts, Hot Dog Carts, or Theme Park Food Carts, as defined by both the Florida Department of Business and Professional Regulation and the State of Florida Division of Hotels and Restaurants Rule 61C-4.0161.

Permit for the purpose of this section, refers to the Mobile Food Establishment Permit, unless otherwise specified.

DBPR, for the purpose of this section, refers to the State of Florida's Department of Business and Professional Regulation.

Commissary means a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease and does not include the use

of a private home as a commissary, as defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Vend means to sell or offer to sell products from a mobile food dispensing vehicle.

(C) *Mobile Food Establishment Permit.*

(1) *Applicability.* A Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from a motorized or non-motorized Food Truck in the City of Pensacola, in compliance with City and State Codes and Ordinances, and as specified within the approved terms and use of the permit as defined in this section.

(2) *Application.* An application shall include the following information:

(a) Copy of applicant's valid Florida Driver's License;

(b) Copy of the food truck's valid registration with the Florida Department of Motor Vehicles;

(c) A certificate of general liability insurance in the amount of \$500,000 naming the City of Pensacola as an insured party;

(d) Proof of commercial automobile insurance for the food truck.

(e) Two photographs of the food truck, as close to the vehicle as possible and which when combined show a clear, unobstructed 360 degree view of the entire vehicle

(f) All required approvals, inspections, and certificates;

(1) Florida Department of Business and Professional Regulation Division of Hotel and Restaurants

(2) Fire Department

(g) Copy of completed DBPR form HR-7022 Commissary Notification, as on file with DBPR;

(h) Application for Business License/Tax Receipt, to be issued concurrently with the Mobile Food Establishment Permit, contingent on approval of Permit.

(3) *Scope of Approval.* The Mayor or his or her designee shall have a maximum of fourteen (14) business days to process applications. If approved, a permit may not become active until the permit fee is paid and the permittee has met all other conditions set forth in this section. The permittee will be issued the Mobile Food Establishment Permit concurrently with a Business License/Tax Receipt. The Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from mobile food trucks in compliance with City Code and as specified on the permit, as set forth in this section.

(4) *Term and Renewal.* Mobile Food Establishment Permits shall expire at midnight on September 30, but may be renewed on an annual basis. Renewal of a Permit will be subject to resubmittal of application as set forth in this section.

(5) *Fees.*

(a) *City of Pensacola.* There shall be a nonrefundable fee for a City of Pensacola Mobile Food Establishment Permit of \$250.00 per annum. The permit will be prorated for new permittees, one time only and on a monthly basis, depending on which calendar month the permit fee is paid, at a minimum pro rata of six (6) months. The fee for renewals of existing permits will not be prorated.

A Mobile Food Establishment Permit is not required when participating in a special event which is permitted through a separate process.

(b) *Outside Agencies.* The Pensacola Mobile Food Establishment Permit does not indemnify or guarantee the permittee against any other restrictions or fees that may be accessed within the permit area from agencies or entities entitled to do so, outside of the purview of the City of Pensacola. The Mayor or his or her designee reserve the right to waive only any fees payable to the City of Pensacola in relation to the Mobile Food Establishment Permit, as part of any open enrollment incentive program offered to permittees.

(6) *Transferability.* Ownership of a Mobile Food Establishment Permit shall not be transferrable.

(7) *Denial, suspension or revocation of permit: due process procedure.* Permits may be denied, suspended or revoked as provided herein. The Mayor or his designee shall provide due process to applicants and permit holders by providing them, in writing, a notice of the proposed action he is intending to take, and an identification of the reasons therefor. The Mayor or his designee shall also provide a reasonable opportunity for the applicant or permit holder to meet or supply a written statement in order to state the applicant or permit holder's position as to why the proposed action should not be taken. The Mayor or his designee shall provide his final decision in writing. Upon denial, suspension or revocation of the permit, the Mayor or his or her designee shall deliver notice within three (3) business days of such action to the permittee in writing, specifically citing any violated terms or conditions of the permit, as set forth in this section. The action shall be effective immediately upon receipt of notice. In the case of a denial, suspension, or revocation of permit, there shall be no full or partial refund of the annual permit fee or any other fees paid to the city for operation of a mobile food dispensing vehicle.

(a) *Suspension.* A Mobile Food Establishment Permit may be suspended for a period of up to thirty (30) days. Notice shall be given to permittee and will provide specific instructions of corrective action, if applicable, that may be required before the conclusion of the suspension period. Suspended permits must be restored to active status within the thirty (30) day period or shall automatically

transfer to a status of revocation at that time. A permit issued under this section may be suspended by the city for any of the following reasons:

- (1) Any required business permit, health permit, or business tax receipt for the mobile food dispensing vehicle is not displayed or has expired, been suspended, revoked or canceled.
- (2) The permittee does not have insurance in effect or proof thereof which complies with the minimum amounts and requirements described in this section.
- (3) The permittee refuses or delays without just cause the City's right to inspection.
- (4) Interfering with the normal use of the right-of-way.
- (5) Conducting business as a Permittee or as a responsible party under this section in an unlawful manner which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace.
- (6) Failure to adhere to all terms and conditions of the Mobile Food Establishment Permit, as set forth in this section.

(b) *Revocation.* A permit issued under this section may be revoked by the city for any of the following reasons:

- (1) Vending while under any of the terms of a suspension shall constitute an automatic revocation of the permit extending for no less than 180 days and until the following permit period beginning on October 1st.
- (2) Any violation of law by the permittee or permittee's responsible party, by an action or by neglect, either foreseeable or preventable which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace. Examples include but are not limited to: acts of violence, harassment, lewd or lascivious behavior, reckless endangerment, willful negligence of safety precautions or procedures.
- (3) Any multiple instances that establish a pattern of non-compliance by the permittee to the terms and conditions of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C- 4.010, 61C-4.0161, and 61C-4.023.
- (4) Inaccurate or falsified information found as part of Permittee's application for Permit.

(c) *Denial.* A Mobile Food Establishment Permit can be denied to any permittee under the following circumstances:

- (1) The permittee fails to meet all the requirements of application as described in this section or fails to agree to the terms and conditions of the permit.
- (2) Inaccurate or falsified information found as part of applicant's application for permit.
- (3) If after the revocation of a Mobile Food Establishment Permit, the permittee demonstrates any further non-compliance to the terms of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C-4.010, 61C-4.0161, and 61C-4.023.

(d) *Appeal.* Decisions of the Mayor or his or her designee to deny, suspend or revoke a permit may be appealed to the City Council, whose decision shall be deemed the final decision of the city. Appeals must be submitted to the Office of the City Council no later than twenty-one (21) days prior to the next regularly scheduled meeting of the Council.

(e) *Amendment.* The Mayor or his or her designee reserve the right to petition the City Council to amend policies, procedures, terms, and conditions of the Mobile Food Establishment Permit as needed. Any changes to the Permit terms and conditions shall be voted on and approved by City Council prior to execution.

(D) *Inspection and identification.*

(1) *Inspection.* The Mayor or his or her designees reserve the right of inspection of all food trucks with a Mobile Food Establishment Permit operating in the City of Pensacola. Permittees will be required to subject the food truck to inspection for the purpose and limited basis of determining permit compliance. The City of Pensacola's process of inspection shall be implemented in the most systematic, efficient way deemed possible by the Mayor's office, with the goal of mitigating any associated undesirable impacts to the City, the permittee, and the general public. A checklist and inspection report will be made available to the permittee upon completion of any inspection.

(2) *Identification.* Each Food Truck shall prominently display the appropriate business tax receipt, state license and county health certificate, and the Mobile Food Establishment Permit, as follows:

- (a) The business tax receipt and county health certificate should be prominently displayed within the food truck. The VIN number of the food truck shall match the VIN number on the approved Mobile Food Establishment Permit application and business tax receipt.

- (b) The Florida Department of Business and Professional Regulation permit should be affixed on the exterior of the vehicle, in plain sight of view.
- (c) The Mobile Food Establishment Permit should be affixed directly adjacent to the DBPR permit.
- (d) The business name and state license number should be prominently displayed and affixed to the food truck, in at least two inch letters and in a contrasting color to the background, as required by the Department of Business and Professional Regulation.
- (e) Any structural or aesthetic modifications made to the food truck after initial application approval must comply with City Code. New photographs must be taken and submitted to the Mayor's office within three days of any modifications.

(E) *Restrictions.* The following restrictions apply to the Mobile Food Establishment Permit:

- (1) A food truck shall not operate:
 - (a) In any public right of way;
 - (b) Within 3 feet of any public or private driveway, wheelchair ramp or bicycle ramp;
 - (c) Adjacent to or impeding upon any previously obtained License to Use (LTU);
 - (d) In commercial loading zones;
 - (e) On any public street or roadway.
- (2) Food trucks shall not be in operation while in motion. Before moving, all equipment must be shut off and secured for transport, portable generators must be shut off and disconnected.
- (3) No vendor may sell alcoholic beverages, controlled substances, or any other illegal item.
- (4) All vendors must provide an appropriately sized trash receptacle within ten (10) feet of the food truck, subject to additional terms set forth in this section. Permittees, their respective agents and employees shall not utilize public trash receptacles for disposal of trash or refuse generated during operation.
- (5) Amplified music or other sounds from any Food Truck shall comply with the noise requirements in Section 8-1-16 of this Code.
- (6) Open flame cooking is prohibited; except that such activity may take place if permitted by the fire department.
- (7) All food trucks shall maintain at all times an updated and current commissary agreement with a state licensed facility, for the proper disposal of grease and wastewater, available upon request by the city.
- (8) Food trucks shall comply with all state and local business tax regulations.

(9) Food trucks shall not cook or maintain a heat source when the vehicle is positioned less than 10 feet from any structure, overhand or awning.

(10) Food truck operators shall at all times obey the directions given by public safety or law enforcement personnel.

(F) *Exclusions.* Mobile Food Dispensing Vehicles authorized to operate at special events as set forth in Chapter 11-4, Article VI of this Code are allowed without a Mobile Food Establishment Permit. Special Events are permitted through a separate process as set forth in that section.

This section shall not apply to pushcart vending, hot dog carts, theme park carts, and other food carts. Cart operations and food truck operations will be considered separate and unique entities. Cart operations are not authorized by use of the City of Pensacola Mobile Food Establishment Permit, but are subject to Section 12-12-7 of this Code.

This section shall not apply to roadside vending markets or vending on city-owned park property which is subject to other regulations.

(G) *Private property.* The vending of products from a Food truck on private property within all zoning districts allowing commercial or retail uses or restaurants and bars shall be allowed, subject to the following conditions:

(1) Food trucks must have the written permission of the owner of the property on which they are located. Written permission shall be provided to the Mayor's office prior to operation on any private property, using the city-approved form.

(2) Food trucks are prohibited on undeveloped property.

(H) *Environmental Considerations.* Food trucks shall operate responsibly and ethically in the reduction and mitigation of negative environmental impacts due to a food truck business operation. Combustible or toxic materials shall be stored properly in original or otherwise approved containers, separate from food service areas.

(I) *Insurance requirements.* A food truck shall obtain at a minimum the insurance as required by any local, state, or federal laws and regulations.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Passed: _____

Approved: _____
President of City Council

Attest:

City Clerk

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING CHAPTER 7-12 AND SECTION 7-12-1 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ESTABLISHING REGULATIONS FOR THE OPERATION OF MOBILE FOOD DISPENSING VEHICLES; CREATING A MOBILE FOOD ESTABLISHMENT PERMIT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 7-12-1 of the Code of the City of Pensacola, Florida, pertaining to mobile food dispensing vehicles, is hereby created to read:

Sec. 7-12-1. Mobile food dispensing vehicles.

(A) *Purpose.* To establish definitions and appropriate standards for mobile food dispensing vehicles, allowing for the typical range of activities while mitigating any associated undesirable impacts.

(B) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this section:

Mobile food dispensing vehicle, for the purpose of this section, is defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Food truck, for the purpose of this section, includes both Food Trucks and Food Trailers, and is defined as any motorized or non-motorized vehicle that fulfills the definition for “Mobile Food Dispensing Vehicle”, excluding Food Carts, Hot Dog Carts, or Theme Park Food Carts, as defined by both the Florida Department of Business and Professional Regulation and the State of Florida Division of Hotels and Restaurants Rule 61C-4.0161.

Permit for the purpose of this section, refers to the Mobile Food Establishment Permit, unless otherwise specified.

DBPR, for the purpose of this section, refers to the State of Florida’s Department of Business and Professional Regulation.

Commissary means a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease and does not include the use of a private home as a commissary, as defined by the State of Florida Division of Hotels and Restaurants in Rule 61C-4.0161.

Palafox Place refers to the area located directly on South Palafox Street that is south of Garden Street.

Vend means to sell or offer to sell products from a mobile food dispensing vehicle.

Primary and Secondary schools refer to any schools, public or private, K-12th grades.

(C) *Mobile Food Establishment Permit.*

(1) *Applicability.* A Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from a motorized or non-motorized Food Truck in the City of Pensacola, in compliance with City and State Codes and Ordinances, and as specified within the approved terms and use of the permit as defined in this section.

(2) *Application.* An application shall include the following information:

- (a) Copy of applicant's valid Florida Driver's License;
- (b) Copy of the food truck's valid registration with the Florida Department of Motor Vehicles;
- (c) A certificate of general liability insurance in the amount of \$500,000 naming the City of Pensacola as an insured party;
- (d) Proof of commercial automobile insurance for the food truck.
- (e) Two photographs of the food truck, as close to the vehicle as possible and which when combined show a clear, unobstructed 360 degree view of the entire vehicle
- (f) All required approvals, inspections, and certificates;
 - (1) Florida Department of Business and Professional Regulation Division of Hotel and Restaurants
 - (2) Fire Department
- (g) Copy of completed DBPR form HR-7022 Commissary Notification, as on file with DBPR;
- (h) Application for Business License/Tax Receipt, to be issued concurrently with the Mobile Food Establishment Permit, contingent on approval of Permit.

(3) *Scope of Approval.* The Mayor or his or her designee shall have a maximum of fourteen (14) business days to process applications. If approved, a permit may not become active until the permit fee is paid and the permittee has met all other conditions set forth in this

section. The permittee will be issued the Mobile Food Establishment Permit concurrently with a Business License/Tax Receipt. The Mobile Food Establishment Permit authorizes the applicant to engage in the vending of products from mobile food trucks in compliance with City Code and as specified on the permit, as set forth in this section.

(4) *Term and Renewal.* Mobile Food Establishment Permits shall expire at midnight on September 30, but may be renewed on an annual basis. Renewal of a Permit will be subject to resubmittal of application as set forth in this section.

(5) *Fees.*

(a) *City of Pensacola.* There shall be a nonrefundable fee for a City of Pensacola Mobile Food Establishment Permit of \$500.00 per annum. The permit fee will be prorated for new permittees, one time only and on a monthly basis, depending on which calendar month the permit fee is paid, at a minimum pro rata of six (6) months. The fee for renewals of existing permits will not be prorated.

A Mobile Food Establishment Permit is not required when participating in a special event which is permitted through a separate process.

(b) *Outside Agencies.* The Pensacola Mobile Food Establishment Permit does not indemnify or guarantee the permittee against any other restrictions or fees that may be accessed within the permit area from agencies or entities entitled to do so, outside of the purview of the City of Pensacola. The Mayor or his or her designee reserve the right to waive only any fees payable to the City of Pensacola in relation to the Mobile Food Establishment Permit, as part of any open enrollment incentive program offered to permittees.

(6) *Transferability.* Ownership of a Mobile Food Establishment Permit shall not be transferrable.

(7) *Denial, suspension or revocation of permit: due process procedure.* Permits may be denied, suspended or revoked as provided herein. The Mayor or his designee shall provide due process to applicants and permit holders by providing them, in writing, a notice of the proposed action he is intending to take, and an identification of the reasons therefor. The Mayor or his designee shall also provide a reasonable opportunity for the applicant or permit holder to meet or supply a written statement in order to state the applicant or permit holder's position as to why the proposed action should not be taken. The Mayor or his designee shall provide his final decision in writing. Upon denial, suspension or revocation of the permit, the Mayor or his or her designee shall deliver notice within three (3) business days of such action to the permittee in writing, specifically citing any violated terms or conditions of the permit, as set forth in this section. The action shall be effective immediately upon receipt of notice. In the case of a denial, suspension, or revocation of permit, there shall be no full or partial refund of the annual permit fee or any other fees paid to the city for operation of a mobile food dispensing vehicle.

(a) *Suspension.* A Mobile Food Establishment Permit may be suspended for a period of up to thirty (30) days. Notice shall be given to permittee and will provide specific instructions of corrective action, if applicable, that may be required before the conclusion of the suspension period. Suspended permits must be restored to active status within the thirty (30) day period or shall automatically transfer to a status of revocation at that time. A permit issued under this section may be suspended by the city for any of the following reasons:

- (1) Any required business permit, health permit, or business tax receipt for the mobile food dispensing vehicle is not displayed or has expired, been suspended, revoked or canceled.
- (2) The permittee does not have insurance in effect or proof thereof which complies with the minimum amounts and requirements described in this section.
- (3) The permittee refuses or delays without just cause the City's right to inspection.
- (4) Interfering with the normal use of the right-of-way.
- (5) Conducting business as a Permittee or as a responsible party under this section in an unlawful manner which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace.
- (6) Failure to adhere to all terms and conditions of the Mobile Food Establishment Permit, as set forth in this section.

(b) *Revocation.* A permit issued under this section may be revoked by the city for any of the following reasons:

- (1) Vending while under any of the terms of a suspension shall constitute an automatic revocation of the permit extending for no less than 180 days and until the following permit period beginning on October 1st.
- (2) Any violation of law by the permittee or permittee's responsible party, by an action or by neglect, either foreseeable or preventable which constitutes a menace to the health, safety or general welfare of the public, or in such a manner as to constitute a breach of the peace. Examples include but are not limited to: acts of violence, harassment, lewd or lascivious behavior, reckless endangerment, willful negligence of safety precautions or procedures.
- (3) Any multiple instances that establish a pattern of non-compliance by the permittee to the terms and conditions of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or

State of Florida Division of Hotels and Restaurants Rules 61C- 4.010, 61C-4.0161, and 61C-4.023.

(4) Inaccurate or falsified information found as part of Permittee's application for Permit.

(c) *Denial.* A Mobile Food Establishment Permit can be denied to any permittee under the following circumstances:

(1) The permittee fails to meet all the requirements of application as described in this section or fails to agree to the terms and conditions of the permit.

(2) Inaccurate or falsified information found as part of applicant's application for permit.

(3) If after the revocation of a Mobile Food Establishment Permit, the permittee demonstrates any further non-compliance to the terms of the Mobile Food Establishment Permit, Florida Department of Business and Professional Regulation requirements, Pensacola City Code, Florida State Law, Federal Law, or State of Florida Division of Hotels and Restaurants Rules 61C-4.010, 61C-4.0161, and 61C-4.023.

(d) *Appeal.* Decisions of the Mayor or his or her designee to deny, suspend or revoke a permit may be appealed to the City Council, whose decision shall be deemed the final decision of the city. Appeals must be submitted to the Office of the City Council no later than twenty-one (21) days prior to the next regularly scheduled meeting of the Council.

(e) *Amendment.* The Mayor or his or her designee reserve the right to petition the City Council to amend policies, procedures, terms, and conditions of the Mobile Food Establishment Permit as needed. Any changes to the Permit terms and conditions shall be voted on and approved by City Council prior to execution.

(D) *Variances.*

(1) Food trucks may operate in commercial loading zones in the rights-of-way, excluding the days and times set forth in this section.

(2) No additional requests for variances shall be allowed.

(E) *Inspection and identification.*

(1) *Inspection.* The Mayor or his or her designees reserve the right of inspection of all food trucks with a Mobile Food Establishment Permit operating in the City of Pensacola. Permittees will be required to subject the food truck to inspection for the purpose and limited basis of determining permit compliance. The City of Pensacola's process of inspection shall be implemented in the most systematic, efficient way deemed possible by the Mayor's office, with the goal of mitigating any associated undesirable impacts to the

City, the permittee, and the general public. A checklist and inspection report will be made available to the permittee upon completion of any inspection.

- (2) *Identification.* Each Food Truck shall prominently display the appropriate business tax receipt, state license and county health certificate, and the Mobile Food Establishment Permit, as follows:
- (a) The business tax receipt and county health certificate should be prominently displayed within the food truck. The VIN number of the food truck shall match the VIN number on the approved Mobile Food Establishment Permit application and business tax receipt.
 - (b) The Florida Department of Business and Professional Regulation permit should be affixed on the exterior of the vehicle, in plain sight of view.
 - (c) The Mobile Food Establishment Permit should be affixed directly adjacent to the DBPR permit.
 - (d) The business name and state license number should be prominently displayed and affixed to the food truck, in at least two inch letters and in a contrasting color to the background, as required by the Department of Business and Professional Regulation.
 - (e) Any structural or aesthetic modifications made to the food truck after initial application approval must comply with City Code. New photographs must be taken and submitted to the Mayor's office within three days of any modifications.

(F) *Restrictions.* The following restrictions apply to the Mobile Food Establishment Permit:

- (1) A food truck shall not operate:
- (a) When parked in the right of way within 20 feet of any intersection, stop sign, flashing beacon, yield sign, or other traffic control signal located on the side of a roadway;
 - (b) Within 3 feet of any public or private driveway, wheelchair ramp or bicycle ramp;
 - (c) In groups of three (3) or more food trucks without a special event permit issued as set forth in Chapter 11-4, Article VI of this Code, entitled Special Events;
 - (d) On Palafox Place, also known as South Palafox Street, between Garden St. and Plaza DeLuna, except as part of a permitted special event;
 - (e) Within two hundred (200) feet from the main entrance of an existing restaurant. This requirement is waivable with the written permission of the restaurant owner.
 - (f) Adjacent to or impeding upon any previously obtained License to Use (LTU);
 - (g) Within 1000 Ft of any school zone while school is in session; thereafter, only in accordance with this ordinance and permission of the school or school district;

- (h) In angle, diagonal, or perpendicular parking spot configurations while vending in the public right-of-way.
 - (i) In commercial loading zones during the following times:
 - (1) Monday through Saturday from 4 a.m. to 6 p.m.
 - (2) Sunday from 4 a.m. to 12 p.m. noon.
 - (j) In any manner that impedes an entrance or exit of an operating business
- (2) Food trucks shall not be in operation while in motion. Before moving, all equipment must be shut off and secured for transport, portable generators must be shut off and disconnected.
 - (3) Food trucks shall not remain in the same location or within 200 feet thereof for more than 5 hours within any consecutive 12 hour period.
 - (4) Food trucks shall not exceed 30 feet in length and 8 feet in width.
 - (5) No vendor may sell alcoholic beverages, controlled substances, or any other illegal item.
 - (6) No furniture, tables, chairs, or any other objects can be placed in the right-of-way, except a self-provided trash receptacle of size adequate to accommodate all trash generated during the term of vending.
 - (7) All vendors must provide an appropriately sized trash receptacle within ten (10) feet of the food truck, subject to additional terms set forth in this section. Permittees, their respective agents and employees shall not utilize public trash receptacles for disposal of trash or refuse generated during operation.
 - (8) Amplified music or other sounds from any Food Truck shall comply with the noise requirements in Section 8-1-16 of this Code.
 - (9) Open flame cooking is prohibited; except that such activity may take place if permitted by the fire department.
 - (10) All food trucks shall maintain at all times an updated and current commissary agreement with a state licensed facility, for the proper disposal of grease and wastewater, available upon request by the city.
 - (11) Food trucks shall comply with all state and local business tax regulations.
 - (12) Food trucks shall not be positioned in a manner that prevents vehicular passage with minimum of a 20 foot clearance.
 - (13) Food trucks shall not cook or maintain a heat source when the vehicle is positioned less than 10 feet from any structure, overhand or awning.

(14) Food trucks shall have an attendant on-site whenever they are parked in a public space or right-of way.

(15) Food truck operators shall at all times obey the directions given by public safety or law enforcement personnel.

(G) *Exclusions.*

(1) This section excludes a contractual or other private arrangement between a Mobile Food Dispensing Vehicle and an individual or group to cater events on private property which are not open to the public. Under this exclusion, food trucks must operate within the boundaries of the area set forth for private events and must not extend into the public space or right-of-way unless authorized by an approved License-to-Use by the City of Pensacola.

(2) Mobile Food Dispensing Vehicles authorized to operate at special events as set forth in Chapter 11-4, Article VI of this Code are allowed without a Mobile Food Establishment Permit. Special Events are permitted through a separate process as set forth in that section.

(3) This section shall not apply to pushcart vending, hot dog carts, theme park carts, and other food carts. Cart operations and food truck operations will be considered separate and unique entities. Cart operations are not authorized by use of the City of Pensacola Mobile Food Establishment Permit, but are subject to Section 12-12-7 of this Code.

(4) This section shall not apply to roadside vending markets or vending on city park property which is subject to other regulations.

(H) *Rights of way.* The operation of a food truck within rights-of-way shall be subject to the following conditions:

(1) *Traffic Laws.* Food trucks are subject to the same local, state and federal traffic laws and privileges and are required to follow the same rules of the road as other vehicles, unless otherwise specifically expressed otherwise by any local, state, or federal traffic laws and ordinances.

(2) Driving over barrier-style curbs or onto sidewalks is prohibited. Food trucks must stay within the areas in the right-of-way designated for vehicles at all times. Vending from food trucks from the right-of-way must occur on a smooth, flat paved surface.

(3) *Parking.* At locations where food trucks are allowed to operate, a food truck may stop, stand or park in any area of the right-of-way not provided for vehicular travel (e.g. parking areas) subject to the conditions of this section. A food truck may not reserve, withhold, or otherwise impede the public from normal use of any of the right-of-way not being occupied by the food truck. Food trucks must adhere to any parking controls, fees, and posted time allowances legally enforced in the right-of-way.

(4) The City of Pensacola reserves the right to deny permittee's access of the public right-of-way to facilitate projects or events within the right-of-way without notice as deemed necessary.

(I) *Private property.* The vending of products from a Food truck on private property within all zoning districts allowing commercial or retail uses or restaurants and bars shall be allowed, subject to the following conditions:

- (1) Food trucks must have the written permission of the owner of the property on which they are located. Written permission shall be provided to the Mayor's office prior to operation on any private property, using the city-approved form.

Vacant properties. Operation of a food truck is prohibited on vacant or undeveloped property.

(J) *Environmental Considerations.* Food trucks shall operate responsibly and ethically in the reduction and mitigation of negative environmental impacts due to a food truck business operation. Combustible or toxic materials shall be stored properly in original or otherwise approved containers, separate from food service areas. Any littering or spillages while operating in the public right-of-way requires immediate cleanup and mitigation. Per Section 11-4-71, it is unlawful to allow any oil waste from motors, gasoline pumps or filling stations, or any other liquid waste, or inflammable or combustible material or substance, to run or to be poured or emptied upon or into the ground of any premises or street.

(K) *Insurance requirements.*

- (1) Operating in the right-of-way:

- (a) The Permittee owner or operator shall at all times maintain any insurance which the city determines to be necessary, which may include but is not limited to, general liability insurance, commercial automobile liability insurance, worker's compensation insurance, and environmental liability insurance, issued by an insurance company licensed to do business in the State of Florida, in the amounts established by the city which shall be reasonably based on industry standards and the risk determined to exist.
- (b) The insurance policy shall be in occurrence form and the City of Pensacola shall be named as an additional insured on the certificate of insurance.
- (c) The permittee, owner or operator shall furnish the city with a certificate of insurance which shall be accepted by the city only after approval by the Mayor or his or her designee.
- (d) The permittee, owner, or operator shall notify the city within three business days of any changes in the insurance coverage. Upon the cancellation or lapse of any policy of insurance as required by this section, the permit shall be immediately suspended unless, prior to the expiration or cancellation date of insurance policy, another insurance policy meeting all the requirements of the city is obtained and a new certificate of insurance is provided to the Mayor or his or her designee.

- (2) Operating in all other locations not in rights-of-way:

- (a) A food truck shall obtain at a minimum the insurance as required by any local, state, or federal laws and regulations.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Passed: _____

Approved: _____
President of City Council

Attest:

City Clerk