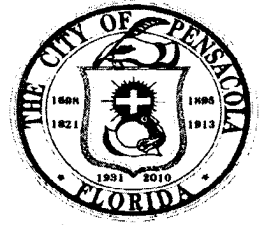


Report of City Council Action Items

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.

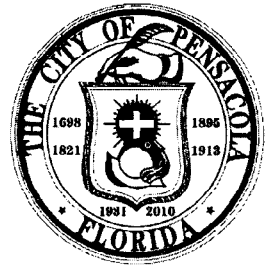
*****THE FOLLOWING ORDINANCE WAS PULLED DUE TO LACK OF SECOND ABOVE*****

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 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) *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:

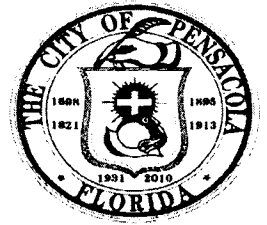
City Clerk

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
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.
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- (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.

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(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: _____

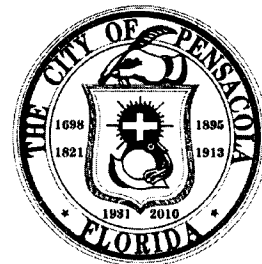
Approved: _____
President of City Council

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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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 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) *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