



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00782

City Council

9/9/2021

ADD-ON LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Sherri Myers

SUBJECT:

REQUEST FOR LEGAL OPINION FROM THE OFFICE OF THE CITY ATTORNEY

RECOMMENDATION:

That City Council request a legal opinion from the Office of the City Attorney asking:

Does the city's enforcement of city code section 11-2-24 and section 12-3-65 impose such restrictions and prohibitions on food trucks that they are effectively prevented from operation within the City of Pensacola in violation of Florida Statute 502.109.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Mayor Grover Robinson has instructed his staff to enforce City Code Sections 11-2-24 and 12-3-65. Florida Statute 502.109 prohibits local municipalities from prohibiting the operations of food trucks within the entirety of the jurisdiction.

Furthermore, the Mayor of Pensacola has instructed his staff to prohibit food trucks from operating on any private, as well as public vacant lots and parking lots. Such enforcement appears to be a taking of private property without due process.

Furthermore, the Mayor of Pensacola has interpreted the word "merchandise" to apply to food prepared on site by a food truck. This interpretation is arbitrary and capricious and seems to violate all Florida Statutes that preempt the regulation of all food services to the state, namely Florida Statute 500.03.

PRIOR ACTION:

HB 1193 - Deregulation of professions and occupations passed and became effective July 1, 2020.

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Legal Opinion re FS509.102 - Mobile Food Dispensing Vehicles
- 2) Section 11-2-24
- 3) Section 12-3-65

PRESENTATION: No