

RE: AN ORDINANCE OF THE NIXA CITY COUNCIL AMENDING THE CITY'S REGULATIONS AS THEY RELATE TO CHAPTER 12 ARTICLE V MOBILE VENDING

Background:

The city has received special use permits requests from business owners of mobile vending vehicles requesting to do an activity that is in violation of our Mobile Vending ordinance. The City Council has approved special use permits in recent years for mobile vendors requesting to keep their vehicle in place longer than what is allowed by current code, which is 12 hours during any 24-hour period. The other request from the same business owners that has been approved is for the mobile vendor to have a drive-thru as part of their operation, which the current code specifically says the vehicle shall not have a drive-thru.

Since these special use permit requests have been approved, staff has not received or heard of any issues with the exceptions these mobile vendors have been granted. Staff wishes to amend the mobile vending ordinance to allow these activities to occur without the time and expense of pursuing a special use permit.

Analysis:

The proposed amendment will remove the current standard that the mobile vending vehicle shall not have a drive-thru. In addition, language will be added to an existing requirement of the code that mobile vending trucks must be parked so that the vehicle nor the customers block driveways of existing building or uses, or in such a manner as to create a traffic hazard. The added language will be to ensure that they cannot create a traffic hazard in the public right-of-way. This will better convey that all drive-thru activity must be contained on the property that the mobile vendor is operating on.

The other portion of this amendment is to allow mobile vending vehicles to locate in one individual location for more than 12 hours in a 24-hour period and to allow overnight parking of the vehicle at the location in which business is being conducted. For these changes staff is adding language to limit these changes to vendors operating in a Highway Commercial (HC) or General Commercial (GC) zoned location. These are the zoning districts that mobile vendors have received approved special use permits to conduct this type of activity. This change will not apply to mobile vendors operating in the M-1 or Neighborhood Commercial (NC) zoned districts. Additional language will require written permission from the property owner, granting the requested length of stay, be provided to the City, rather than only being kept on the vehicle.

Recommendation:

Staff recommends approval of this code amendment.

MEMO SUBMITTED BY:

Scott Godbey | Director of Planning and Development
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1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER**
2 **12, ARTICLE V, OF THE NIXA CITY CODE BY AMENDING SECTIONS 12-103 AND**
3 **12-104 TO MODIFY PROVISIONS RELATED TO MOBILE VENDING.**
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5
6 **WHEREAS** City Council desires to modify provisions of the Nixa City Code related
7 to the City’s mobile vending regulations; and
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9 **WHEREAS** the City Council, after considering the amendments contained herein,
10 desires to approve and adopt this Council Bill.
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12 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
13 **NIXA, AS FOLLOWS, THAT:**
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15 **SECTION 1:** Chapter 12, Article V, of the Nixa City Code is hereby amended by
16 repealing section 12-103 in its entirety and adopting in lieu thereof a new section 12-103,
17 which said section shall read as follows:
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19 (Note: Language to be added is indicated by being underlined. Language to be removed
20 is indicated by being ~~stricken~~.)
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22 Sec. 12-103. – Use standards.
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24 A person operating a mobile vending truck on private property shall be allowed
25 subject to the following regulations:
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- 27 (1) Mobile vending truck business activity to be temporary. All business activity
28 related to mobile vending operations shall be of a temporary nature subject
29 to the following requirements:
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- 31 a. A mobile vending truck may not park in one individual location for more than
32 12 hours during any 24-hour period when located on Neighborhood
33 Commercial (NC) or M-1 zoned property. When located on a Highway
34 Commercial (HC) or a General Commercial (GC) zoned property, the mobile
35 vending business may stay in place longer than 12 hours provided that the
36 property owner has given written permission to the mobile vendor and a copy
37 of that permission is provided to the City.
38
 - 39 b. No overnight parking is allowed in the location at which business is being
40 conducted if located on Neighborhood Commercial (NC) or M-1 zoned
41 property. If mobile vendor is located on Highway Commercial (HC) or General
42 Commercial (GC) zoned property, the mobile vending business may stay in
43 place overnight, provided that the property owner has given written
44 permission to the mobile vendor and a copy of that permission is provided to
45 the City.
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47 c. A mobile vendor may not operate between the hours of 10:00 p.m. and 7:00
48 a.m.

49
50 (2) Locates on an approved surface that is at least 100 feet from the door of a
51 lawfully established eating or retail place unless the owner of the eating or
52 retail place provides a letter of consent, a copy of which shall be kept within
53 the mobile vending truck.

54
55 (3) Any auxiliary power required for the operation of the mobile vending truck
56 shall be self-contained. No use of public or private power sources are
57 allowed without providing written consent from the owner.

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59 (4) All materials generated from a mobile vending business that are to be
60 disposed of should be disposed of properly. It is illegal to discharge or
61 dispose of any substance, material, food, or waste into the storm drain
62 system.

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64 (5) All grounds utilized by a mobile vending truck shall at all times be
65 maintained in a clean and attractive manner. Trash and recycling containers
66 shall be provided for use by the mobile vending truck patrons. All trash or
67 debris accumulating within 20 feet of any mobile operation should be
68 collected by the vendor and deposited into a trash container.

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70 (6) One sign, no larger than 24 inches by 36 inches, shall be allowed in addition
71 to those signs physically attached to the vehicle. Said sign shall not be
72 placed further than ten feet from the mobile vending truck.

73
74 ~~(7) The mobile vending truck shall not have a drive through.~~

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76 (7)(8) Mobile food vending equipment as defined in section 12-102, shall be
77 subject to the above use standards.

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79 **SECTION 2:** Chapter 12, Article V, of the Nixa City Code is hereby amended by
80 repealing section 12-103 in its entirety and adopting in lieu thereof a new section 12-103,
81 which said section shall read as follows:

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83 (Note: Language to be added is indicated by being underlined. Language to be removed
84 is indicated by being ~~stricken~~.)

85
86 Sec. 12-104. Location and placement requirements.

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88 (a) Mobile vending truck operations are only allowed within the following zoning districts:
89 HC (highway commercial), GC (general commercial), NC (neighborhood
90 commercial), M1 (light industrial), and M2 (heavy industrial).

91

- 92 (b) Operations are only allowed on private property and city owned property, subject to
- 93 written approval from the property owner. Written approval must be present on the
- 94 mobile vending truck and available upon request.
- 95
- 96 (c) Parking is only allowed on an approved hard surface as provided in subsection 111-
- 97 207(a), parking is not allowed on grass or other landscaped area.
- 98
- 99 (d) Mobile vending trucks must be parked so that neither the vehicle nor the customers
- 100 block driveways of existing buildings or uses, or in such a manner as to create a
- 101 traffic hazard in the public right-of-way.
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- 103 (e) No mobile vending truck shall interfere with the internal parking lot circulation.
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- 105 (f) Mobile vending trucks shall not occupy any handicap accessible parking space.
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- 107 (g) Mobile vending trucks shall not use the public right-of-way unless otherwise allowed
- 108 by ordinance.
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- 110 (h) Mobile food vending equipment as defined in section 12-102, shall be subject to the
- 111 above use standards.
- 112

113 **SECTION 3:** The City Attorney, when codifying the provisions of this Ordinance, is
 114 authorized to provide for different section numbers, subsection numbers, and different
 115 internal citation references than those provided herein when such section numbers,
 116 subsection numbers, or internal citation references are in error or are contrary to the intent
 117 of this Ordinance.

118
 119 **SECTION 4:** Savings Clause. Nothing in this Ordinance shall be construed to
 120 affect any suit or proceeding now pending in any court or any rights acquired, or liability
 121 incurred nor any cause or causes of action occurred or existing, under any act or
 122 ordinance repealed hereby.

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 124 **SECTION 5:** Severability Clause. If any section, subsection, sentence, clause, or
 125 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
 126 the validity of the remaining portions of this Ordinance. The Council hereby declares that
 127 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
 128 phrase thereof, irrespective of the fact that any one or more sections, subsections,
 129 sentences, clauses, or phrases be declared invalid.

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 131 **SECTION 6:** This Ordinance shall be in full force and effect from and after its final
 132 passage by the City Council and after its approval by the Mayor, subject to the provisions
 133 of section 3.11(g) of the City Charter.

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 136 **ADOPTED BY THE COUNCIL THIS 27th DAY OF February 2023.**

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COUNCIL BILL NO. 2023-01

ORDINANCE NO. _____

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PRESIDING OFFICER

ATTEST:

CITY CLERK

APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY