

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

Background:

With the recent increase in popularity and varied uses of food trucks and mobile retailers, staff have identified issues within Chapter 12 Article V - Mobile Vending Ordinance. Specifically, a recently proposed "food truck park" business model brought our attention to the need to amend this ordinance. In the past, staff have utilized Special Use Permits (SUPs) to allow mobile vendors to operate against current code language. The SUPs allowed mobile vendors to keep their vehicle in place longer than is allowed by the current code (12 hours during any 24-hour period) and to have a drive-thru as part of their operation. Currently Nixa city code does not have language to allow either of these practices.

In the time since these SUPs were granted, current staff is not aware of any objections or concerns resulting from the operations of the mobile vendors that received SUP's. Staff proposes to amend the Mobile Vending Ordinance to allow for a process in which these business practices can occur, without the time and expense of issuing SUPs.

Analysis:

The proposed amendments would establish parameters for a new approved use of Food Truck Parks and delineate two types of mobile retailers: temporary and long-term. Regulations on temporary mobile retailers would remain mostly the same allowing for conventional come-and-go mobile retail operation. Long-term mobile retail would require connection to city electric and includes language for a process which would allow for drive-thru service. In addition, language will be added to an existing requirement of the code that mobile retail vehicles must be parked where neither the vehicle nor the customers block driveways of existing buildings or uses, or in such a manner as to create a traffic hazard. The added language would 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 retailer is operating on.

The other major portion of this amendment is to define and allow Food Trucks Parks as a use in commercially zoned districts. Among the proposed regulations: a site plan approved by the Planning & Development Department, required connections to municipal electric and water services, non-portable restrooms will be required, public parking for patrons, trash/grease receptacles on site. The minimum requirements are

intended to promote the safety and well-being of the public as well as foster investment and improvement to property.

The amendment would also change vending to retail, remove the Mobile Retail language from Chapter 12 and place it in the Land Development Code under Chapter 117.

Planning and Zoning Commission:

A public hearing for this item was held March 4th at the regularly scheduled Planning and Zoning Commission meeting. No one approached the Commission to speak on this item. The P&Z Commission voted unanimously (7-0) to recommend approval to Nixa City Council.

Recommendation:

The language updates and the addition of the Food Truck Park use will provide a clearer path for these types of businesses to operate within the city limits. 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, CHAPTER 117 – ARTICLE VIII, AND SECTION 117-99 OF THE NIXA**
3 **CITY CODE FOR THE PURPOSE OF MODIFYING THE CITY’S REGULATIONS**
4 **RELATED TO MOBILE RETAIL USES.**

5 _____
6
7 **WHEREAS** Planning and Development staff have identified several concerns with
8 the City’s current mobile vending regulations, located at Chapter 12, Article V of the Nixa
9 City Code; and

10
11 **WHEREAS** this Council Bill, if approved, would modify the City Code to establish
12 parameters for mobile retail uses desiring to operate within the City; and

13
14 **WHEREAS** the Planning and Zoning Commission held a public hearing to consider
15 the amendments contained herein at their March 4, 2024, regular meeting; and

16
17 **WHEREAS** after said public hearing, the Commission recommended approval of
18 said amendments; and

19
20 **WHEREAS** the City Council desires to modify the City Code as set forth herein.

21
22 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
23 **NIXA, AS FOLLOWS, THAT:**

24
25 **SECTION 1:** Chapter 12, Article V, of the Nixa City Code is hereby amended by
26 repealing said Article in its entirety.

27
28 **SECTION 2:** Chapter 117, Article VIII, of the Nixa City Code is hereby amended
29 by adding thereto a new Division 3, which said Division shall read as follows (Explanation:
30 Language in bold-face type (e.g., **thus**) is language to be added. Language in bold-
31 faced brackets (e.g., [~~thus~~]) is not enacted and is intended to be omitted or deleted.):

32
33 **DIVISION 3. – MOBILE RETAIL USES**

34
35 **Sec. 117-360. Purpose.**

36
37 **The purpose of this division is to preserve and promote the health, safety,**
38 **and general welfare of the public by promoting compatibility among land uses**
39 **within the community through regulations intended to minimize the potential**
40 **harmful or nuisance effects resulting from noise, location, and other activities**
41 **associated with mobile retail uses.**

42
43 **Sec. 117-361. Definitions.**

45 Unless otherwise specifically provided herein or unless the context clearly
46 indicates otherwise, the words and phrases defined in this section shall have the
47 meaning indicated when used in this division.
48

49 ***Mobile food truck*** means a motorized vehicle, which is validly licensed by
50 the State of Missouri, or other State, that includes a self-contained kitchen or
51 attached trailer kitchen in which food is prepared, processed, or stored, and such
52 vehicle is used to sell or dispense food to the general public.
53

54 ***Mobile food truck park*** means a parcel of land for which the primary purpose
55 is to allow for multiple mobile food trucks to operate in designated locations.
56

57 ***Mobile retail establishment*** means a motorized vehicle, which is validly
58 licensed by the State of Missouri, or other State, that sells non-food items and
59 services to the public, entirely within said vehicle.
60

61 ***Mobile retail use*** means the operation of a mobile food truck, mobile food
62 truck park, or a mobile retail establishment.
63

64 ***Temporary mobile retail use*** means a mobile retail use which does not
65 operate for longer than 12 hours in one fixed location.
66

67 ***Long-term mobile retail use*** means a mobile retail use which operates in a
68 single location for longer than 12 hours with written permission from the property
69 owner.
70

71 **Sec. 117-362. Mobile retail use permit required.**
72

73 All mobile retail uses shall comply with the following requirements:
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75 (a) No mobile retail use shall operate within the boundaries of the City of Nixa
76 without first obtaining a business license as required by chapter 12, article II of
77 the Nixa City Code.
78

79 (b) No mobile retail use which includes the sale or provision of food or beverages
80 shall operate within the boundaries of the City of Nixa without a current and
81 valid permit from the local health department.
82

83 (c) All city and county permits and inspections must be displayed at a prominent
84 and publicly visible location for each mobile retail use.
85

86 (d) No mobile retail use shall operate within the boundaries of the City of Nixa
87 without first obtaining a use permit in conformance with the provisions of this
88 division.
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90 **Sec. 117-363. Temporary mobile retail use requirements.**

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The operation of a temporary mobile retail use shall comply with the following use standards:

- (a) Temporary mobile retail uses are permitted uses only within the following zoning districts: HC (highway commercial), GC (general commercial), NC (neighborhood commercial), M1 (light industrial), M2 (heavy industrial), and designated common areas of residential zoning districts.
- (b) Temporary mobile retail use shall not be located on an individual lot for more than 12 hours during any 24-hour period. All vehicles, trailers, or other equipment which are part of the temporary mobile retail use shall not be left on the individual lot after this 12-hour period.
- (c) Temporary mobile retail uses shall only be permitted when the fee owner of the real property in which the use is to occur has provided written approval authorizing such use. Written approval must be displayed at the mobile retail use and made available upon request.
- (d) Any auxiliary power, such as electric generators, which are required for the operation of the temporary mobile retail use shall be self-contained. No use of public or private power sources shall be allowed without the prior written consent of the fee owner of the real property in which the use is to occur.
- (e) All materials generated from the temporary mobile retail use that are to be disposed of shall be disposed of properly. It shall be a violation of this division to discharge or dispose of any substance, material, food, or waste into the storm drain system.
- (f) Trash and recycling containers shall be provided for use by the temporary mobile retail use patrons. All trash or debris generated by the temporary mobile retail use or its patrons or any trash or debris accumulating within 20 feet of any temporary mobile retail use shall be collected by the temporary mobile retail use operator and deposited into an appropriate container.
- (g) One sign, no larger than 24 inches by 36 inches, shall be allowed in addition to those signs physically attached to the vehicle. Said sign shall not be placed further than ten feet from the temporary mobile retail use.
- (h) No drive throughs of any kind shall be allowed in connection with temporary mobile retail use.
- (i) Parking shall only be allowed on an approved hard surface as provided in Section 111-207(a) of the Nixa City Code.

136 (j) Mobile retail uses shall not be parked or otherwise located so that the vehicle
137 nor the patrons block any driveways of existing buildings or uses, or in such a
138 manner as to create a traffic hazard.

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140 (k) Temporary mobile retail uses shall not occupy any handicap accessible parking
141 spaces.

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143 (l) Temporary mobile retail uses shall not operate on the public right-of-way or on
144 public streets.

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146 **Sec. 117-364. Long-Term Mobile retail use standards.**

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148 The operation of a long-term mobile retail use shall comply with the following
149 use standards:

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151 (a) Long-term mobile retail uses are permitted uses only within the following zoned
152 districts: HC (highway commercial), GC (general commercial), and NC
153 (neighborhood commercial).

154
155 (b) Long-term mobile retail uses may stay in place longer than 12 hours provided
156 that the property owner has given written permission to the long-term mobile
157 retail use a copy of which shall be kept within the long-term mobile retail use
158 and a copy of that permission is provided to the City.

159
160 (c) Long-term mobile retail uses shall be located on an approved hard surface that
161 is at least 100 feet from any entrance or exit of a lawfully established eating or
162 retail place unless the owner of the eating or retail place provides a letter of
163 consent, a copy of which shall be kept within the long-term mobile retail use
164 and a copy of that permission shall be provided to the City.

165
166 (d) Auxiliary power sources such as electric generators are prohibited for long-
167 term mobile retail uses. Connection to public electric power is required.

168
169 (e) All materials generated from the long-term mobile retail use that are to be
170 disposed of shall be disposed of properly. It shall be a violation of this division
171 to discharge or dispose of any substance, material, food, or waste into the storm
172 drain system.

173
174 (f) Trash and recycling containers shall be provided for use by the long-term
175 mobile retail use patrons. All trash or debris generated by the long-term mobile
176 retail use or its patrons or any trash or debris accumulating within 20 feet of any
177 long-term mobile retail use shall be collected by the long-term mobile retail use
178 operator and deposited into an appropriate container.

179

- 180 (g) One sign, no larger than 24 inches by 36 inches, shall be allowed in addition to
181 those signs physically attached to the vehicle. Said sign shall not be placed
182 further than ten feet from the long-term mobile retail use.
183
- 184 (h) Drive throughs may be permitted for long-term mobile retail uses with an
185 approved site plan by the Director of Planning and Development. The site plan
186 shall demonstrate that no motor vehicles will block pedestrian traffic on public
187 sidewalks or vehicular traffic on public streets. The stacking area for vehicular
188 traffic utilizing the drive through shall be designated on the site plan and shall
189 be designed to accommodate safe and efficient on-site circulation and parking
190 space access. The approved site plan shall govern the operation of the long-
191 term mobile retail use in addition to the applicable provisions of this division
192 and other applicable provisions of the Nixa City Code.
193

194 **Sec. 117-365. Exemptions.**

- 195
- 196 (a) Mobile retail uses operating at special events may operate without a use permit
197 provided that the mobile retail use is located entirely within the boundaries of
198 an approved special event permit issued by the City pursuant to applicable
199 provisions of the Nixa City Code.
200
- 201 (b) Mobile food trucks shall be allowed to operate on public right-of-way under the
202 following conditions:
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 - 204 (1) The operator does not stop on the public right-of-way for a period longer
205 than one minute.
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 - 207 (2) The operator does not impede the flow of traffic.
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 - 209 (3) The operator complies with all applicable provisions of the Nixa Cit Code or
210 State law relating to the operation of motor vehicles.
211

212 **Sec. 117-366. Mobile food truck park use standards.**

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214 The operation of a mobile food truck park use shall comply with the following
215 use standards:

- 216
- 217 (a) Food Truck Parks are permitted uses only within the following zoning districts:
218 HC (highway commercial), GC (general commercial), and NC (neighborhood
219 commercial).
220
- 221 (b) *Site Plan Review.* Prior to operation, food truck park operators are required to
222 submit a site plan to the Department of Planning and Development. The site plan
223 shall include a detailed scaled drawing, photo, or rendering containing retail
224 locations, utility connections, public parking locations, dumpster location,
225 grease collection bin locations, and public restroom locations in sufficient

226 detail to demonstrate compliance with this Division and any other applicable
227 provisions of the Nixa City Code. The proposed site plan shall be approved by
228 the Director of Planning and Development upon demonstrated compliance with
229 the provisions of this Division and any other applicable provisions of the Nixa
230 City Code. The approved site plan shall govern the operation of the mobile food
231 truck park.

232

233 ***(c) Use standards applicable to mobile food truck parks.***

234

235 **(1) Each mobile food truck park shall provide an approved hard surface for retail**
236 **locations as defined in Section 111-207(a) of the Nixa City Code.**

237

238 **(2) The food truck park shall provide electrical connections for each retail**
239 **location as designated on the approved site plan.**

240

241 **(3) The use of auxiliary power sources, such as electric power generators, shall**
242 **be prohibited.**

243

244 **(4) The food truck park shall provide water service connections for each retail**
245 **location as designated on the approved site plan.**

246

247 **(5) Public restrooms with municipal sewer connection within a permanent**
248 **structure shall be required. Restroom structure must be in compliance with**
249 **the Americans with Disabilities Act and all applicable provisions of the Nixa**
250 **City Code, including adopted building codes. Portable restrooms are**
251 **prohibited. A minimum of two restrooms with separate entrances is required.**

252

253 **(6) At minimum one two-yard commercial garbage receptacle shall be provided**
254 **onsite and shall be accessible to all food trucks in compliance with Section**
255 **111-8 of Nixa City Code.**

256

257 **(7) A minimum of one 20-gallon garbage receptacle per every two food trucks**
258 **shall be provided for patron use. If seating is provided an additional 20-**
259 **gallon receptacle shall be provided for every 10 seats.**

260

261 **(8) The food truck park shall provide a grease disposal bin with the location**
262 **designated on the approved site plan.**

263

264 **(9) A minimum of two parking spaces shall be provided per each mobile retail**
265 **location.**

266

267 **(11) One center identification sign as defined in Chapter 113, Article I, of the Nixa**
268 **City Code identifying the food truck park is permitted. No physical**
269 **alterations or physical additions shall be made to the center identification**
270 **sign without an additional approved sign permit. Each food truck is allowed**
271 **one temporary sign in compliance with Section 117-363(7) of the Nixa City**

272 Code. Temporary signs authorized herein shall be stored when the food
273 truck is not in operation.

274
275 (d) *Outdoor seating.* If outdoor seating is provided the following standards shall
276 apply:

277
278 (1) Outdoor seating areas shall be located no closer than 10 feet from any
279 property line.

280
281 (2) Outdoor seating areas shall not obstruct the movement of pedestrians along
282 sidewalks or through areas intended for public use.

283
284 (3) Outdoor seating areas shall be designated on the approved site plan.

285
286 (e) *Location of food trucks within food truck park.*

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288 (1) Food trucks shall operate only from designated, approved locations within
289 the food truck park and as designated on the approved site plan.

290
291 (2) Food trucks within a food truck park shall not operate within 10 feet from any
292 property line

293
294 (3) A separation of a minimum of 10 feet between food trucks must be
295 maintained and kept clear of obstructions sufficient to provide emergency
296 access to each food truck.

297
298 **SECTION 3:** Chapter 117, Article IV, Section 117-99 of the Nixa City Code is
299 hereby amended as set forth herein:

300
301 (1) The “temporary mobile retail” use shall be added to the “Retail Trade” section of
302 the table of approved uses and such use shall be authorized within the NC, GC,
303 HC, M1, and M2 zoning districts as a permitted use.

304
305 (2) The “long-term mobile retail” use shall be added to the “Retail Trade” section of
306 the table of approved uses and such use shall be authorized within the HC, GC,
307 and NC zoning districts as a permitted use.

308
309 (3) The “mobile food truck park” use shall be added to the “Retail Trade” section of the
310 table of approved uses and such use shall be authorized within the NC, GC, and
311 HC zoning districts as a permitted use.

312
313 **SECTION 4:** Aside from the modifications described in Section 3, all other portions
314 of Section 117-99 of the Nixa City Code shall remain unmodified.

315
316 **SECTION 5:** The City Attorney, when codifying the provisions of this Ordinance, is
317 authorized to provide for different section numbers, subsection numbers, and different

318 internal citation references than those provided herein when such section numbers,
319 subsection numbers, or internal citation references are in error or are contrary to the intent
320 of this Ordinance.

321
322 **SECTION 6:** Savings Clause. Nothing in this Ordinance shall be construed to
323 affect any suit or proceeding now pending in any court or any rights acquired, or liability
324 incurred nor any cause or causes of action occurred or existing, under any act or
325 ordinance repealed hereby.

326
327 **SECTION 7:** Severability Clause. If any section, subsection, sentence, clause, or
328 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
329 the validity of the remaining portions of this Ordinance. The Council hereby declares that
330 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
331 phrase thereof, irrespective of the fact that any one or more sections, subsections,
332 sentences, clauses, or phrases be declared invalid.

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334 **SECTION 8:** This Ordinance shall be in full force and effect from and after its final
335 passage by the City Council and after its approval by the Mayor, subject to the provisions
336 of section 3.11(g) of the City Charter.

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338
339 **ADOPTED BY THE COUNCIL THIS ____ DAY OF _____, 2024.**

340
341 ATTEST:
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343 _____
344 PRESIDING OFFICER CITY CLERK

345
346
347 **APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2024.**

348
349 ATTEST:
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351 _____
352 MAYOR CITY CLERK

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354 APPROVED AS TO FORM:
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356 _____
357 CITY ATTORNEY
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