



EXHIBIT A

ISSUE STATEMENT: PUBLIC HEARING AND POSSIBLE VOTE CONCERNING THE PROPOSED AMENDMENTS TO CHAPTER 12 ARTICLE V OF THE NIXA CODE OF ORDINANCES RELATING TO MOBILE VENDING

DATE: March 4th, 2024

SUBMITTED BY: PLANNING AND DEVELOPMENT DEPARTMENT

PRESENTED BY: PLANNING AND DEVELOPMENT DEPARTMENT

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.

Analysis

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.

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.

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.

1 AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER
2 12, ARTICLE V, CHAPTER 117, ARTICLE VIII, AND CHAPTER ARTICLE IV FOR THE
3 PURPOSE OF MODIFYING THE CITY’S REGULATIONS RELATED TO MOBILE
4 RETAIL USES.

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7 WHEREAS; and

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9 WHEREAS; and

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11 WHEREAS; and

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13 WHEREAS the City Council desires to modify the City Code as set forth herein.

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15 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
16 NIXA, AS FOLLOWS, THAT:

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18 SECTION 1: Chapter 12, Article V, of the Nixa City Code is hereby amended by
19 repealing said Article in its entirety.

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

25
26 **DIVISION 3. – MOBILE RETAIL USES**

27
28 **Sec. 117-360. Purpose.**

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30 The purpose of this division is to preserve and promote the health, safety,
31 and general welfare of the public by promoting compatibility among land uses
32 within the community through regulations intended to minimize the potential
33 harmful or nuisance effects resulting from noise, location, and other activities
34 associated with mobile retail uses.

35
36 **Sec. 117-361. Definitions.**

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38 Unless otherwise specifically provided herein or unless the context clearly
39 indicates otherwise, the words and phrases defined in this section shall have the
40 meaning indicated when used in this division.

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

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

49
50 **Mobile retail establishment** means a motorized vehicle, which is validly
51 licensed by the State of Missouri, or other State, that sells non-food items and
52 services to the public, entirely within said vehicle.

53
54 **Mobile retail use** means the operation of a mobile food truck, mobile food
55 truck park, or a mobile retail establishment.

56
57 **Temporary mobile retail use** means a mobile retail use which does not
58 operate for longer than 12 hours in one fixed location.

59
60 **Long-term mobile retail use** means a mobile retail use which operates in a
61 single location for longer than 12 hours with written permission from the property
62 owner.

63
64 **Sec. 117-362. Mobile retail use permit required.**

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66 All mobile retail uses shall comply with the following requirements:

67
68 (a) No mobile retail use shall operate within the boundaries of the City of Nixa
69 without first obtaining a business license as required by chapter 12, article II of
70 the Nixa City Code.

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

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

78
79 (d) No mobile retail use shall operate within the boundaries of the City of Nixa
80 without first obtaining a use permit in conformance with the provisions of this
81 division.

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83 **Sec. 117-363. Temporary mobile retail use requirements.**

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

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88 (a) Temporary mobile retail uses are permitted uses only within the following
89 zoning districts: HC (highway commercial), GC (general commercial), NC
90 (neighborhood commercial), M1 (light industrial), M2 (heavy industrial), and
91 designated common areas of residential zoning districts.

92

- 93 (b) Temporary mobile retails use shall not be located on an individual lot for more
94 than 12 hours during any 24-hour period. All vehicles, trailers, or other
95 equipment which are part of the temporary mobile retail use shall not be left on
96 the individual lot after this 12-hour period.
- 97
- 98 (c) Temporary mobile retail uses shall only be permitted when the fee owner of the
99 real property in which the use is to occur has provided written approval
100 authorizing such use. Written approval must be displayed at the mobile retail
101 use and made available upon request.
- 102
- 103 (d) Any auxiliary power, such as electric generators, which are required for the
104 operation of the temporary mobile retail use shall be self-contained. No use of
105 public or private power sources shall be allowed without the prior written
106 consent of the fee owner of the real property in which the use is to occur.
- 107
- 108 (e) All materials generated from the temporary mobile retail use that are to be
109 disposed of shall be disposed of properly. It shall be a violation of this division
110 to discharge or dispose of any substance, material, food, or waste into the storm
111 drain system.
- 112
- 113 (f) Trash and recycling containers shall be provided for use by the temporary
114 mobile retail use patrons. All trash or debris generated by the temporary mobile
115 retail use or its patrons or any trash or debris accumulating within 20 feet of any
116 temporary mobile retail use shall be collected by the temporary mobile retail
117 use operator and deposited into an appropriate container.
- 118
- 119 (g) One sign, no larger than 24 inches by 36 inches, shall be allowed in addition to
120 those signs physically attached to the vehicle. Said sign shall not be placed
121 further than ten feet from the temporary mobile retail use.
- 122
- 123 (h) No drive throughs of any kind shall be allowed in connection with temporary
124 mobile retail use.
- 125
- 126 (i) Parking shall only be allowed on an approved hard surface as provided in
127 Section 111-207(a) of the Nixa City Code.
- 128
- 129 (j) Mobile retail uses shall not be parked or otherwise located so that the vehicle
130 nor the patrons block any driveways of existing buildings or uses, or in such a
131 manner as to create a traffic hazard.
- 132
- 133 (k) Temporary mobile retail uses shall not occupy any handicap accessible parking
134 spaces.
- 135
- 136 (l) Temporary mobile retail uses shall not operate on the public right-of-way or on
137 public streets.
- 138

139 **Sec. 117-364. Long-Term Mobile retail use standards.**
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141 The operation of a long-term mobile retail use shall comply with the following
142 use standards:

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144 (a) Long-term mobile retail uses are permitted uses only within the following zoned
145 districts: HC (highway commercial), GC (general commercial), and NC
146 (neighborhood commercial).
147

148 (b) Long-term mobile retail uses may stay in place longer than 12 hours provided
149 that the property owner has given written permission to the long-term mobile
150 retail use a copy of which shall be kept within the long-term mobile retail use
151 and a copy of that permission is provided to the City.
152

153 (c) Long-term mobile retail uses shall be located on an approved hard surface that
154 is at least 100 feet from any entrance or exit of a lawfully established eating or
155 retail place unless the owner of the eating or retail place provides a letter of
156 consent, a copy of which shall be kept within the long-term mobile retail use
157 and a copy of that permission shall be provided to the City.
158

159 (d) Auxiliary power sources such as electric generators are prohibited for long-
160 term mobile retail uses. Connection to public electric power is required.
161

162 (e) All materials generated from the long-term mobile retail use that are to be
163 disposed of shall be disposed of properly. It shall be a violation of this division
164 to discharge or dispose of any substance, material, food, or waste into the storm
165 drain system.
166

167 (f) Trash and recycling containers shall be provided for use by the long-term
168 mobile retail use patrons. All trash or debris generated by the long-term mobile
169 retail use or its patrons or any trash or debris accumulating within 20 feet of any
170 long-term mobile retail use shall be collected by the long-term mobile retail use
171 operator and deposited into an appropriate container.
172

173 (g) One sign, no larger than 24 inches by 36 inches, shall be allowed in addition to
174 those signs physically attached to the vehicle. Said sign shall not be placed
175 further than ten feet from the long-term mobile retail use.
176

177 (h) Drive throughs may be permitted for long-term mobile retail uses with an
178 approved site plan by the Director of Planning and Development. The site plan
179 shall demonstrate that no motor vehicles will block pedestrian traffic on public
180 sidewalks or vehicular traffic on public streets. The stacking area for vehicular
181 traffic utilizing the drive through shall be designated on the site plan and shall
182 be designed to accommodate safe and efficient on-site circulation and parking
183 space access. The approved site plan shall govern the operation of the long-

184 term mobile retail use in addition to the applicable provisions of this division
185 and other applicable provisions of the Nixa City Code.

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187 **Sec. 117-365. Exemptions.**

188
189 **(a) Mobile retail uses operating at special events may operate without a use permit**
190 **provided that the mobile retail use is located entirely within the boundaries of**
191 **an approved special event permit issued by the City pursuant to applicable**
192 **provisions of the Nixa City Code.**

193
194 **(b) Mobile food trucks shall be allowed to operate on public right-of-way under the**
195 **following conditions:**

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197 **(1) The operator does not stop on the public right-of-way for a period longer**
198 **than one minute.**

199
200 **(2) The operator does not impede the flow of traffic.**

201
202 **(3) The operator complies with all applicable provisions of the Nixa Cit Code or**
203 **State law relating to the operation of motor vehicles.**

204
205 **Sec. 117-366. Mobile food truck park use standards.**

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207 **The operation of a mobile food truck park use shall comply with the following**
208 **use standards:**

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210 **(a) Food Truck Parks are permitted uses only within the following zoning districts:**
211 **HC (highway commercial), GC (general commercial), and NC (neighborhood**
212 **commercial).**

213
214 **(b) *Site Plan Review.* Prior to operation, food truck park operators are required to**
215 **submit a site plan to the Department of Planning and Development. The site plan**
216 **shall include a detailed scaled drawing, photo, or rendering containing retail**
217 **locations, utility connections, public parking locations, dumpster location,**
218 **grease collection bin locations, and public restroom locations in sufficient**
219 **detail to demonstrate compliance with this Division and any other applicable**
220 **provisions of the Nixa City Code. The proposed site plan shall be approved by**
221 **the Director of Planning and Development upon demonstrated compliance with**
222 **the provisions of this Division and any other applicable provisions of the Nixa**
223 **City Code. The approved site plan shall govern the operation of the mobile food**
224 **truck park.**

225
226 **(c) *Use standards applicable to mobile food truck parks.***

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

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- (2) The food truck park shall provide electrical connections for each retail location as designated on the approved site plan.
 - (3) The use of auxiliary power sources, such as electric power generators, shall be prohibited.
 - (4) The food truck park shall provide water service connections for each retail location as designated on the approved site plan.
 - (5) Public restrooms with municipal sewer connection within a permanent structure shall be required. Restroom structure must be in compliance with the Americans with Disabilities Act and all applicable provisions of the Nixa City Code, including adopted building codes. Portable restrooms are prohibited. A minimum of two restrooms with separate entrances is required.
 - (6) At minimum one two-yard commercial garbage receptacle shall be provided onsite and shall be accessible to all food trucks in compliance with Section 111-8 of Nixa City Code.
 - (7) A minimum of one 20-gallon garbage receptacle per every two food trucks shall be provided for patron use. If seating is provided an additional 20-gallon receptacle shall be provided for every 10 seats.
 - (8) The food truck park shall provide a grease disposal bin with the location designated on the approved site plan.
 - (9) A minimum of two parking spaces shall be provided per each mobile retail location.
 - (11) One center identification sign as defined in Chapter 113, Article I, of the Nixa City Code identifying the food truck park is permitted. No physical alterations or physical additions shall be made to the center identification sign without an additional approved sign permit. Each food truck is allowed one temporary sign in compliance with Section 117-363(7) of the Nixa City Code. Temporary signs authorized herein shall be stored when the food truck is not in operation.
- (d) *Outdoor seating.* If outdoor seating is provided the following standards shall apply:
- (1) Outdoor seating areas shall be located no closer than 10 feet from any property line.
 - (2) Outdoor seating areas shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

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

(e) Location of food trucks within food truck park.

- (1) Food trucks shall operate only from designated, approved locations within the food truck park and as designated on the approved site plan.
- (2) Food trucks within a food truck park shall not operate within 10 feet from any property line
- (3) A separation of a minimum of 10 feet between food trucks must be maintained and kept clear of obstructions sufficient to provide emergency access to each food truck.

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

- (1) The “temporary mobile retail” use shall be added to the “Retail Trade” section of the table of approved uses and such use shall be authorized within the NC, GC, HC, M1, and M2 zoning districts as a permitted use.
- (2) The “long-term mobile retail” use shall be added to the “Retail Trade” section of the table of approved uses and such use shall be authorized within the HC, GC, and NC zoning districts as a permitted use.
- (3) The “mobile food truck park” use shall be added to the “Retail Trade” section of the table of approved uses and such use shall be authorized within the NC, GC, and HC zoning districts as a permitted use.

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

SECTION 5: The City Attorney, when codifying the provisions of this Ordinance, is authorized to provide for different section numbers, subsection numbers, and different internal citation references than those provided herein when such section numbers, subsection numbers, or internal citation references are in error or are contrary to the intent of this Ordinance.

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

SECTION 7: Severability Clause. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect

322 the validity of the remaining portions of this Ordinance. The Council hereby declares that
323 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
324 phrase thereof, irrespective of the fact that any one or more sections, subsections,
325 sentences, clauses, or phrases be declared invalid.

326
327 **SECTION 8:** This Ordinance shall be in full force and effect from and after its final
328 passage by the City Council and after its approval by the Mayor, subject to the provisions
329 of section 3.11(g) of the City Charter.

330
331 **ADOPTED BY THE COUNCIL THIS ____ DAY OF _____, 2024.**

332
333 ATTEST:

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336 _____
337 PRESIDING OFFICER CITY CLERK

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339 **APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2024.**

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341 ATTEST:

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345 MAYOR CITY CLERK

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347 APPROVED AS TO FORM:

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349 _____
350 CITY ATTORNEY