

★ Roll Call Number

Agenda Item Number

38

Date March 23, 2015

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing subsection (1) of Section 78-10, the definition of "transient merchant" in Section 78-61, and all of Sections 102-458 and 102-459 thereof, and enacting a new subsection (1) of Section 78-10, a new definition of "transient merchant" in Section 78-61, and new Sections 102-459, and by adding and enacting a new subsection (10) to Section 78-10, and a new Article V to Chapter 78, to establish the Mobile Vender Pilot Program and regulate the sale of food and beverages by mobile vendors in the downtown area",

which was considered and voted for the first time upon under Roll Call No. 14-0421 of March 9, 2015, again presented.

(Council Communication No. 15-159)

MOVED by _____ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing subsection (1) of Section 78-10, the definition of "transient merchant" in Section 78-61, and all of Sections 102-458 and 102-459 thereof, and enacting a new subsection (1) of Section 78-10, a new definition of "transient merchant" in Section 78-61, and new Sections 102-459, and by adding and enacting a new subsection (10) to Section 78-10, and a new Article V to Chapter 78, to establish the Mobile Vender Pilot Program and regulate the sale of food and beverages by mobile vendors in the downtown area.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as amended by Ordinance No. 14,801 passed November 10, 2008, be and is hereby amended by repealing subsection (1) of Section 78-10, the definition of "transient merchant" in Section 78-61, and all of Sections 102-458 and 102-459 thereof, and enacting a new subsection (1) of Section 78-10, a new definition of "transient merchant" in Section 78-61, and new Section 102-459, and by adding and enacting a new subsection (10) to Section 78-10, and a new Article V to Chapter 78, to establish the Mobile Vender Pilot Program and regulate the sale of food and beverages by mobile vendors in the downtown area, as follows:

Chapter 78 PEDDLERS AND SOLICITORS*
ARTICLE I. IN GENERAL

Sec. 78-10. Limitation on retail premises.

No person shall engage in the business of displaying for sale, or selling, food, beverages or merchandise within the city from any vehicle, trailer, tent, or temporary structure or from any temporary location or place, except:

- (1) *Permitted premises.* Activities conducted in compliance with a certificate of occupancy issued pursuant to section 134-151, ~~or~~ entirely within a building in compliance with chapter 134, or in conformance with a site plan approved pursuant to Article V of chapter 82.
- ...
- (10) *Mobile vendors.* Sales activities by a mobile vender which are conducted in compliance with a mobile vender license issued pursuant to article V of this chapter.

ARTICLE III. - TRANSIENT MERCHANTS

Sec. 78-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...
Transient merchant means a person, principal or agent who engages in a merchandising business from a temporary location or structure in the city, and who, for the purpose of carrying on such business, hires, leases or occupies any land, structure, trailer or truck for the exhibition and sale of such goods, wares or merchandise and including the sale of any article, food, beverage, fruit, vegetable or farm product; provided however that the following types of sales activities shall not constitute sales by a transient merchant:

- (1) *Yard sales.* The casual and occasional sales of used household goods by the owner thereof to the public, on a nonreceiving basis, if the seller, at the time of the sale, is not engaged for profit in the business of selling goods of that or a similar nature, so long as such sales are not conducted in excess of four consecutive days and no more than two times annually.
- (2) *Licensed use of right-of-way.* Sales activities conducted in compliance with an entertainment district license, a sidewalk sales permit, a farmers' or public market permit, or a sidewalk cafe license or lease issued for the premises pursuant to article VII of chapter 102 of this code.
- (3) *Street Use Permit.* Sales activities conducted in compliance with a street use permit issued pursuant to article XVI of chapter 102 of this code.
- (4) *Special Permits.* Sales activities conducted pursuant to a special permit issued by the zoning board of adjustment pursuant to division 3 of article IV of chapter 134 of this code.
- (5) *Peddlers.* Sales activities conducted in compliance with a peddlers license issued pursuant to article II of this chapter.
- (6) *Parks.* The sale of food and beverages in public parks and rivers with permission of the park and recreation board.
- (7) *Emergency response sites.* Sales of food and beverages at the site of an emergency or disaster with the permission of the police chief, fire chief or public works director.
- (8) *Mobile vendors.* Sales activities by a mobile vender which are conducted in compliance with a mobile vender license issued pursuant to article V of this chapter.

ARTICLE V. MOBILE FOOD VENDERS

Sec. 78-200. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Certified food protection manager" is a person who holds an active certified food protection manager certificate from a program approved by the national Conference for Food Protection.

"Food service establishment" shall have that meaning established by section 481-30.2 of the Iowa Administrative Code.

"Mobile vender" means a person engaged in the business of selling food or beverages from a mobile vender vehicle.

"Meter hood" means a bag owned by the city and issued to a mobile vender for temporary use during the term of the mobile vender's license. Subject to the requirements of this article, the meter hood may be placed over a parking meter to reserve and hold a parking space within the mobile vender zones for use by the mobile vender to whom the meter hood was issued. However, nothing in this article shall be interpreted as authorizing a mobile vender vehicle to be parked at a location which would not otherwise then be available for general public use.

"Mobile vender vehicle" means a motorized vehicle or trailer used for the sale of food or beverages for immediate consumption.

"Restaurant" means a food service establishment which derives at least 50% of its gross receipts from the sale of food for immediate consumption on the premises.

"Zone" means the mobile vender zones as defined in section 78-201 of this article.

Sec. 78-201. Mobile Vender Zones.

a) Subject to the requirements of this article, a mobile vender license is only valid for the sale of food or beverages for immediate consumption from a mobile vender vehicle lawfully parked at a parking meter within a mobile vender zone.

b) The mobile vender zones consist of and are limited to the following street segments:

Zone A:

Grand Avenue from 13th Street to 15th Street,
Locust Street from 13th Street to 15th Street,
Walnut Street from 13th Street to 15th Street,
13th Street from Grand Avenue to Walnut Street, and
15th Street from Grand Avenue to Walnut Street.

Zone B:

Center Street from 5th Avenue to 9th Street,
Crocker Street from 5th Avenue to 9th Street,
Park Street from 3rd Street to 7th Street, and
Watson Powell Jr Way from 3rd Street to 7th Street.

Zone C:

Cherry Street from 5th Avenue to 9th Street,
Mulberry Street from 5th Avenue to 7th Street, and
5th Avenue from Vacated Vine Street to Mulberry Street.

Zone D:

East Court Avenue from East 2nd Street to East 6th Street,
East Grand Avenue from Robert D Ray Drive to East 4th Street,
Locust Street and East Locust Street from the west end of the Locust Street bridge over the Des Moines River to East 4th Street,
East Walnut Street from East 1st Street to East 7th Street,
Robert D Ray Drive from East Grand Avenue to East Locust Street,
East 2nd Street from East Walnut Street to E Court Avenue,
East 3rd Street from East Walnut Street to E Court Ave,
East 4th Street from East Walnut Street to East Court Avenue, and
East 7th Street from East Walnut Street to a point 240 feet south of East Court Avenue.

Sec. 78-202. Pilot Project – Transitional Provisions.

- a) This article is being adopted as a pilot project for a limited duration, after which the city council will determine whether to repeal this article, or to repeal the transitional provisions under this section and make any other changes to this article as may be appropriate in light of the lessons learned during the pilot project.
- b) Notwithstanding anything in this article to the contrary, the following provisions shall be controlling during the pilot project:
 - 1) All mobile vender licenses shall expire on October 31, 2015. No mobile vender license shall be issued for any term extending or commencing after October 31, 2015.
 - 2) The regulations set forth in this article are subject to change at any time.
 - 3) If the city council determines by resolution at any time that the number of licensed mobile vendors exceed that number that can be reasonably accommodated by the mobile vender zones it may direct the city clerk to immediately cease issuance of new mobile vender licenses. In that event the city clerk shall maintain a list of applicants who have filed a mobile vender license application which could not be granted because of such restriction, and the date and time at which each such application was received.

Sec. 78-203. License required.

- a) Every mobile vender shall, before offering for sale any food or beverages in the city, obtain a license for their sale from the city clerk as provided in this article.
- b) A mobile vender license authorizes the operation of a mobile vender vehicle upon the public streets within the mobile vender zones, subject to the regulations set forth in this article.
- c) A separate mobile vender license shall be required for each mobile vending vehicle.

Sec. 78-204. Application for license.

- a) Every mobile vender shall apply to the city clerk for a mobile vender license at least three business days prior to use by providing the following information upon a form to be provided by the city clerk, and paying the application fee in the amount set in the schedule of fees adopted by the city council by resolution:
 - 1) The full name, age, permanent address and phone number of the applicant.
 - 2) The business name and address.
 - 3) A description of the motorized vehicle or trailer from which the sale will be conducted, including the license plate number, and the length of the motorized vehicle or the trailer and tow vehicle.
 - 4) A summary of the cuisine of food to be sold.
 - 5) The period of time the applicant has been engaged in the same or similar business, and the jurisdictions in which the applicant has previously conducted business in the last year.
 - 6) The application must be accompanied by a copy of a retail sales tax permit issued to the applicant by the Iowa Department of Revenue.
 - 7) If the mobile vender sells food or beverages other than prepackaged items that do not require hot or cold handling procedures, then the application shall also contain the following:
 - (a) A copy of the mobile food unit license issued by the Iowa Department of Inspections and Appeals for the mobile vender vehicle.
 - (b) A copy of the appropriate food establishment license issued by the Iowa Department of Inspection and Appeals for any commissary kitchen or other premises where food is

- prepared for sale from the mobile vender vehicle, and the name and contact information for the individual or business responsible for the operation of such kitchen or premises.
- (c) The name of one or more certified food protection managers employed by the business and a copy of their current certification as a certified food protection manager.
- (d) The addresses of the businesses or facilities at which any fat, oil or grease generated in the operation of the mobile vender business are disposed of, including the contact information for the individual or business responsible for the operation of each such business or facility. Any change in the businesses or facilities used for the disposal of such fat, oil and grease shall be reported to the city clerk in writing by the mobile vender within three business days of the first use of a the new business or facility.
- 8) The location where the mobile vender vehicle will be regularly parked when not in use.
- 9) Evidence of liability insurance for operation of the mobile vender vehicle, or the tow vehicle if the mobile vender vehicle is a trailer, providing the coverages required by Section 78-205.
- b) A mobile vender shall notify the city clerk in writing of any change to the information provided pursuant to subsection a, above, within five business days of such change.

Sec. 78-205. Insurance.

Every mobile vender shall maintain liability insurance for operation of the mobile vender vehicle, or the tow vehicle if the mobile vender vehicle is a trailer, and provide proof of the following coverages in its application for a mobile vender license and any time upon request by the city clerk:

- 1) An insurance policy or policies, or certificate of insurance, issued by an insurance company having an A.M. Best rating of no less than B+. The policy(ies) shall include commercial general liability insurance coverage and automobile liability insurance coverage, or the equivalent thereof, for the owner of the mobile vender vehicle and tow vehicle if applicable, and for the mobile vender business if different from the vehicle owner. The commercial general liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than \$1,000,000.00 per occurrence and aggregate combined single limit. The automobile liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit.
- 2) The certificate of insurance referred to in this section shall provide that the insurance policy or policies have been endorsed to provide 30 days advance written notice of cancellation, 45 days advance written notice of non-renewal, and ten days advance written notice of cancellation due to nonpayment of premium, and that these written notices shall be provided by e-mail, facsimile, delivery or regular mail to the city clerk.
- 3) The cancellation or other termination of any required insurance policy shall automatically revoke and terminate the mobile vender license, unless another policy(ies), complying with this section, shall be provided and in effect at the time of such cancellation or termination. The city clerk shall immediately issue written notification of the revocation of the mobile vender license.

Sec. 78-206. Cash bonds.

- a) Except as provided in paragraph (c) below, no mobile vender license shall be issued until the applicant has delivered to the city clerk a cash bond for no less than \$200.00. The bond shall be held to indemnify and pay the city any penalties or costs incurred in the enforcement of any of

the sections of this article and indemnify or reimburse any purchaser of food or beverages for any judgment which may be obtained by a purchaser for damages in any action commenced within three months from the date of purchase, due to misrepresentations as to the kind, quality or value of such food or beverages, whether the misrepresentations were made by the owner or by his or her agents or employees, either at the time of making the sale or through any advertisement of any character, printed or circulated, with reference to such food or beverages.

- b) A single bond may be used for all licenses obtained by the same mobile vender.
- c) The balance of the bond shall be released by the city clerk and returned to the applicant upon request by the applicant at any time more than four months after expiration of all mobile vender licenses for which the cash bond was provided, unless the city clerk has received notice of a pending action in the state or federal courts seeking a judgment upon a claim eligible for payment from the bond. Except as otherwise provided by court order, the city clerk shall not release any bond during the pendency of any such action.

Sec. 78-207. Meter hoods.

- a) Every mobile vender, is required to obtain a meter hood to be issued by the city clerk for each licensed mobile vender vehicle. If the mobile vender vehicle, or the mobile vender vehicle and tow vehicle if the mobile vender is a trailer, is longer than twenty feet and no longer than twenty-five feet the mobile vender may elect to obtain a second meter hood from the city clerk. If the mobile vender vehicle is a trailer, and the mobile vender vehicle and tow vehicle are longer than twenty-five feet, the mobile vender is required to obtain a second meter hood to be issued by the city clerk
- b) The annual fee for the use of the first and second meter hoods issued with each mobile vender license shall be in the amount set in the schedule of fees adopted by the city council by resolution.
- c) To secure the return of each meter hood at the expiration or termination of the mobile vender license, a deposit in the amount set in the schedule of fees adopted by the city council by resolution shall be collected by the city clerk for each meter hood so issued, including replacement hoods. Upon request to the city clerk and return of the meter hood in good condition, excepting ordinary wear, the city clerk shall cause the deposit to be refunded to the mobile vender by mailing payment to the address of record for such vender.
- d) In the event any meter hood is lost, stolen or damaged, the mobile vender may obtain a replacement meter hood upon payment of the replacement hood fee and deposit in the amounts set in the schedule of fees adopted by the city council by resolution.

Sec. 78-208. License issuance.

- a) A mobile vender license shall be denied to any applicant who has operated a mobile vender business in material violation of any of the requirements of this article or any other chapter of this Code within the prior 180 days.
- b) The city clerk or the city clerk's designee shall, upon satisfaction that the information provided in an application for a mobile vender license is true and correct and that the requirements of this article for issuance of the license have been satisfied, and upon payment of the cash bond required by section 78-206 and the meter hood fee and deposit required by section 78-207, issue the license and one or two meter hoods as provided in section 78-207.

- c) The city clerk shall deny any application for the operation of a mobile vender business that does not conform with all applicable requirements of this article, the City Code, the Iowa Code and the Iowa Administrative Code.
- d) In the event an application for a mobile vender license is denied, the city clerk or the city clerk's designee shall cause notice of such denial to be promptly communicated to the applicant or the applicant's representative by phone at the phone number provided in the application. Written notice shall also be sent to the applicant at the business address identified in the application informing the applicant of the denial, the reasons therefore, and the applicant's right to appeal the denial to an administrative hearing officer by filing a written notice of appeal with the city clerk within ten business days after the date of such notice.
- e) If no appeal from the denial of a license is timely filed, or if the denial is not reversed upon final disposition of any appeal, the city clerk shall promptly refund the refundable portion of the application fee, as set in the schedule of fees adopted by the city council by resolution.
- f) A mobile vender license shall be effective for one calendar year, or the portion thereof remaining after issuance of the license.

Sec. 78-209. Appeal of denial.

The denial of an application for a mobile vender license may be appealed pursuant to the administrative appeal process set forth in chapter 3 of this Code.

Sec. 78-210. Transferability of license.

- a) Mobile vender licenses issued under this article are not transferable between individuals or businesses.
- b) A mobile vender may apply to transfer their mobile vender license to another mobile vender vehicle as follows:
 - 1) The mobile vender shall file an amended application meeting the requirements of section 78-204 for the new mobile vender vehicle and shall return the mobile vender license previously issued for the original mobile vender vehicle.
 - 2) The mobile vender shall pay the transfer fee in the amount set forth in the Schedule of Fees adopted by the City Council by resolution.
- c) The city clerk or the city clerk's designee shall, upon satisfaction that the information provided in the amended application for a mobile vender license is true and correct, and that the requirements of this article for issuance of the amended license have been satisfied, issue the new license.

Sec. 78-211. Suspension or revocation of license.

- a) Upon complaint or reasonable suspicion that a licensee or the licensee's employees or agents has furnished any false information required under this article or has violated or failed to comply with any of the requirements of this article or any other chapter of this Code, the city clerk or the city clerk's designee may cause the matter to be investigated. If the city clerk or the city clerk's designee finds that the licensee or the licensee's employees or agents has furnished any false information required under this article or has violated or failed to comply with any of the requirements of this article or any other chapter of this Code, the city clerk or the city clerk's designee may give notice to the licensee of the city's intent to suspend or revoke the license, or to deny its renewal.
- b) Notice of the city's intent to suspend, revoke, or deny the renewal of a license and a brief summary of the factual basis for such remedial action shall be served upon the licensee. Such

notice shall inform the licensee of the time, date and place of a meeting where the licensee may meet with the city clerk or the city clerk's designee for the purpose of presenting additional information regarding the intended remedial action and the factual basis therefore, and that a final decision on appropriate remedial action will be made after the scheduled time for such meeting. Such notice shall be served upon the licensee by personal service or by service upon a cashier for the business at a licensed premises, or by regular mail addressed to the licensee at the licensee's business address as shown on the application a minimum of five business days prior to the date set for the meeting.

- c) If, after the scheduled meeting and after consideration of all the available information including any information provided at the meeting by the licensee, the city clerk or the city clerk's designee makes a finding based on substantial evidence that a violation of this article or another chapter of this Code did in fact take place as alleged, the city clerk or the city clerk's designee may suspend or revoke the license or deny its renewal; the determination of whether to so suspend or revoke the license or deny its renewal shall be in the discretion of the city clerk or the city clerk's designee and shall be dependent upon the circumstances surrounding the violation and its severity. The decision to suspend, revoke or deny renewal of a license shall be in writing and shall identify the basis for such action. The decision shall be promptly served in the same manner as required for the service of the notice required under subsection (b), and shall not be effective until ten days after so served. The decision shall also give notice that it may be appealed to an administrative hearing officer by filing a notice of appeal with the city clerk within ten business days of the date of the decision.
- d) The decision of the city clerk or the city clerk's designee to suspend, revoke or deny renewal of a license pursuant to this section may be appealed pursuant to the administrative appeal process set forth in chapter 3 of this Code.
- e) A licensee whose license has been revoked or denied for renewal shall not be eligible for another such license for a period of 180 days after such revocation or denial of renewal.

Sec. 78-212. – General Regulations.

- a) Hours of operation. Between 1:30 a.m. and 5:30 a.m., no mobile vender vehicle shall be open for business, and no mobile vender shall be parked within a mobile vender zone.
- b) Allowed locations.
 - 1) No mobile vender shall conduct any sale from a mobile vender vehicle which is not lawfully parked in a metered parallel parking space in a mobile vender zone.
 - 2) No mobile vender shall conduct any sale from a parking space which is designated as a handicap parking space with a blue meter, or designated as a 30 minute parking space with a green meter, or designated as restricted for residential permit parking only.
 - 3) No mobile vender shall conduct any sale from a mobile vender vehicle located within 100 feet of any public entrance into the waiting or service area of any street level restaurant then open for business.
 - 4) During the time that any part of a street is closed for an event for which a street use permit has been issued, and except as allowed within the event area by the party holding the street use permit, no mobile vender shall conduct any sale within the affected blocks or within two blocks of the affected blocks. For purposes of this section:
 - i) A "block" is the entire right-of-way of a public street extending from the centerline of an intersecting street or the lateral centerline of any river bridge, to the centerline of the next intersecting street or the lateral centerline of any river bridge, whichever is closer; and,

- ii) The "affected blocks" are any blocks containing any portion of the street closure for which the street use event has been issued.
- c) Mobile vender vehicle.
1. Any motorized vehicle used as a mobile vender vehicle shall be no larger than twenty five feet long, ten and one-half feet tall and eight and one-half feet wide. Any trailer used as a mobile vender vehicle together with the tow vehicle shall be no larger than thirty five feet long, ten and one-half feet tall and eight and one-half feet wide.
 2. Except for the storage and preparation of food and beverages at a separate kitchen or commissary kitchen, all storage and preparation of food and beverages offered for sale by a mobile vender shall occur within a fully enclosed space within the mobile vender vehicle.
 3. A trailer used as a mobile vender vehicle must remain attached to the tow vehicle at all times while parked in a mobile vender zone.
- d) Display of license. The license required by this article and a valid sales tax permit for such business shall be displayed within the mobile vender vehicle a manner such that it is readily visible to all persons seeking to conduct business with the mobile vender.
- e) Sale of merchandise. No mobile vender shall offer any merchandise or wares for sale other than food and beverages for immediate consumption.
- f) Meter hoods.
- 1) No mobile vender shall cause or permit any meter hood issued to them to be placed over any parking meter outside the mobile vender zones at any time. No mobile vender shall cause or permit any meter hood issued to them to be placed over any parking meter inside the mobile vender zones at any time between 1:30 a.m. and 5:30 a.m. Any meter hood found being used in violation of this paragraph may be immediately confiscated by any police officer or community development inspector who shall cause it to be returned to the city clerk. Confiscation of a meter hood may include cutting, ripping or destroying the meter hood if required for its prompt removal.
 - 2) No person shall place a meter hood over the parking meter for a parking space that is then occupied by any vehicle other than the mobile vender vehicle operated by the mobile vender to whom the meter hood was issued.
 - 3) When a parking meter is covered by a mobile vender bag, no person shall park any vehicle in the corresponding parking space except the mobile vender vehicle operated by the mobile vender to whom the meter hood was issued. Violation of this paragraph shall also constitute illegal parking in violation of a traffic control device.
 - 4) No mobile vender shall conduct any sale from a mobile vender vehicle unless such vehicle, including the tow vehicle if applicable, is lawfully parked in one or two metered parallel parking spaces with the corresponding parking meters covered by a meter hood issued for that mobile vender vehicle.
 - 5) Nothing in this article shall be interpreted as authorizing a mobile vender vehicle to be parked at a location which is not then available for general public use, but for the use of the meter hood.
 - 6) Mobile vendors shall cooperate with any person authorized to place a street closure bag or restricted parking bag over a parking meter then covered by a meter hood, including but not limited to promptly and temporarily removing the meter hood to allow a street closure bag to be placed over the meter and under the hood.

- g) Food Safety. Any mobile vender who offers food or beverages for sale, other than prepackaged items that do not require hot or cold handling procedures, shall be subject to the following additional requirements:
- 1) A valid mobile food unit license for the mobile vender vehicle shall be displayed within the mobile vender vehicle in a location that is readily visible to all customers.
 - 2) Any such mobile vender who is not a certified food protection manager shall employ at least one certified food protection manager; shall maintain a copy of their certification(s) as a certified food protection manager in the mobile vending vehicle; and shall produce the certification documents for inspection upon request by any police officer or community development department inspector.
 - 3) No mobile vender shall operate the business in a manner that violates any applicable food and sanitation laws.
- h) Noise. No mobile vender shall operate the business in a manner that violates the Noise Control Ordinance of the City of Des Moines set forth in article IV of Chapter 42 of this Code. No person shall offer for sale or sell anything from a mobile vending vehicle by shouting or raised voice.
- i) Use of street and sidewalk. No mobile vender shall place any tables, chairs, furniture, equipment, signage or other material on the ground, streets or sidewalks. No mobile vender shall place any food, materials or equipment on the ground or on tables, chairs, or shelves that are not incorporated into the mobile vending vehicle.
- j) Trash receptacles. A mobile vender shall provide one or more trash receptacles readily accessible to its customers either in or attached to the mobile vender vehicle. All such trash receptacles and all accumulations of trash and litter shall be removed from the site by the mobile vender before departing.
- k) All sales from sidewalk side. No mobile food vender shall conduct any sales from outside the mobile vender vehicle. All sales activities and the transfer of food and beverages to the customer shall occur only on the sidewalk side of the mobile vender vehicle. No mobile vender shall sell to any person situated in a motor vehicle. However, nothing in this paragraph shall be interpreted to prohibit such reasonable accommodation as may be needed to serve a customer with a disability
- l) Grease disposal.
- a) All fat, oil and grease generated in the operation of a mobile vender business shall be disposed of at the business or facility identified in the mobile vender's application for a license. Any change in the businesses or facilities used for the disposal of such fat, oil and grease shall be reported to the city clerk in writing by the mobile vender within three business days of the first use of a the new business or facility.
 - b) All fat, oil and grease generated in the operation of a mobile vender business shall be disposed of in compliance with the requirements of division 5, article III of chapter 118 regarding the discharge of fat, oil and grease by food service establishments.

Sec. 78-213. Municipal infractions and penalties.

- a) Any person who violates this article shall be guilty of a municipal infraction punishable pursuant to Municipal Code section 1-15. Any person who violates a section of this article after having previously been found guilty of violating the same section of this article shall be guilty of a repeat offense.
- b) Relief under this section shall be in addition to the remedies set forth in section 78-211.

Secs 78-214 – 78-299. Reserved

**Chapter 102 - STREETS, SIDEWALKS, SKYWALKS AND OTHER PUBLIC PLACES
ARTICLE VII. - USE OF STREETS AND SIDEWALKS FOR BUSINESS PURPOSES
DIVISION 1. - GENERALLY**

Sec. 102-458. – Refreshment stands.

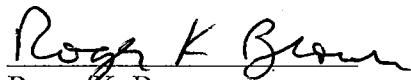
~~No person shall erect or maintain, for purpose of sale, any lemonade, popcorn or other refreshment stand within the limits of any street or alley except as otherwise provided in this article.~~

Sec. 102-459. - Lunchwagons, fruit stands, shoe shining parlors.

~~No person shall keep, maintain, stand or operate any lunchwagon or stand for the sale of fruit or edibles or any other substances, commodities or articles of merchandise or any shoe shining parlors on any street, sidewalk or alley within that section of the city, bounded on the east by the east line of East Ninth Street, on the west by the west line of West Twelfth Street, on the south by the south line of Cherry Street and the south line of Court Avenue and on the north by the north line of Des Moines Street and the north line of West Grand Avenue, except as otherwise provided in this article.~~

Sec. 2. This ordinance shall be in full force and effect from and after the later of its passage and publication as provided by law, or April 10, 2015.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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CITY OF DES MOINES MOBILE FOOD VENDOR APPLICATION

Complete application must be submitted
at least 3 business days prior to first date of sales

	FEES Must be submitted with application Make checks payable to City of Des Moines	
Mobile Vendor Pilot Program 4-10-15 through 10-31-15	\$275	\$50 Non-Refundable Amount (if application is denied)
Cash Bond	\$200	Refundable 120 days after expiration of the license
Meter Hood (2 hoods required for units longer than 25')	\$590 each	
Meter Hood Deposit	\$35	Fully refundable

Applicant's Name _____ Age _____ Daytime Phone _____
(Please print) _____ Alternate Phone _____

Applicant's Address _____ City _____ ST _____ ZIP _____

Business Name _____

Business Address _____

Email _____ Website _____

Vehicle(s) Description _____
(food truck, trailer, tow vehicle)

License Plate Number(s) _____ Cuisine to be sold _____

Length of Vehicle/Trailer _____
Any motorized vehicle used shall be no larger than 25' long, 10 1/2' tall and 8 1/2' wide
Any trailer used together with the tow vehicle shall be no larger than 35' long, 10 1/2' tall and 8 1/2' wide

Length of time applicant has been engaged in the same or similar business _____

Other cities where applicant has conducted business in the past 12 months _____

Location where mobile vendor unit will be regularly parked while not in use _____

Name of one or more Certified Food Protection Managers employed by the business
(Certificate attached) _____

Businesses or facilities where fat, oil, grease and wastewater generated are disposed of _____

Name	Address	Phone Number

I hereby certify that the above statements are true and correct, to the best of my knowledge.

Signature _____ Date _____

FOR CLERK'S OFFICE USE

Date	Receipt #
Amount received	CC001010 455285 Cash / Check / Charge

Mobile Food Vendor Application Checklist

All items listed below must be submitted with the application

	Completed application
	\$200 cash bond (if not already on file in the Clerk's Office)
	Application fee /Meter Hood fee and deposit
	Copy of State of Iowa Retail Sales Tax Permit issued by the Iowa Department of Revenue 515-281-3114
	Copy of the appropriate State-issued Mobile Food Unit License issued by the Iowa Department of Inspections and Appeals for the mobile vendor vehicle (not required if selling only pre-packaged food, that does not require hot or cold holding procedures) 515-281-6538
	(If applicable) Copy of the appropriate food establishment license issued by the Iowa Department of Inspections and Appeals for any commissary kitchen or other premises where food is prepared for sale from the mobile vendor unit; (name and contact information for individual or business responsible for operation of such kitchen or premises)
	Name Address Phone #
	Paid receipts for any past due City fines/charges, (parking tickets, camera citations, etc.)
	Copy of Certified Food Protection Manager(s) certifications, issued in conjunction with the National Conference for Food Protection
	Copy of applicants Driver's License
	Completed Acknowledgement Form
	<p>Municipal Code --Sec. 78-205. Insurance.</p> <p>a) Every mobile vender shall maintain liability insurance for operation of the mobile vender vehicle, or the tow vehicle if the mobile vender vehicle is a trailer, and provide proof of the following coverages in its application for a mobile vender license and any time upon request by the city clerk:</p> <ol style="list-style-type: none"> (1) An insurance policy or policies, or certificate of insurance, issued by an insurance company having an A.M. Best rating of no less than B+. The policy(ies) shall include commercial general liability insurance coverage and automobile liability insurance coverage, or the equivalent thereof, for the owner of the mobile vender vehicle and tow vehicle if applicable, and for the mobile vender business if different from the vehicle owner. The commercial general liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than \$1,000,000.00 per occurrence and aggregate combined single limit. The automobile liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit. (2) The certificate of insurance referred to in this section shall provide that the insurance policy or policies have been endorsed to provide 30 days advance written notice of cancellation, 45 days advance written notice of non-renewal, and ten days advance written notice of cancellation due to nonpayment of premium and that these written notices shall be provided by e-mail, facsimile, delivery or regular mail to the city clerk. (3) The cancellation or other termination of any required insurance policy shall automatically revoke and terminate the mobile vender license, unless another policy(ies), complying with this section, shall be provided and in effect at the time of such cancellation or termination. The city clerk shall immediately issue written notification of the revocation of the mobile vender license.

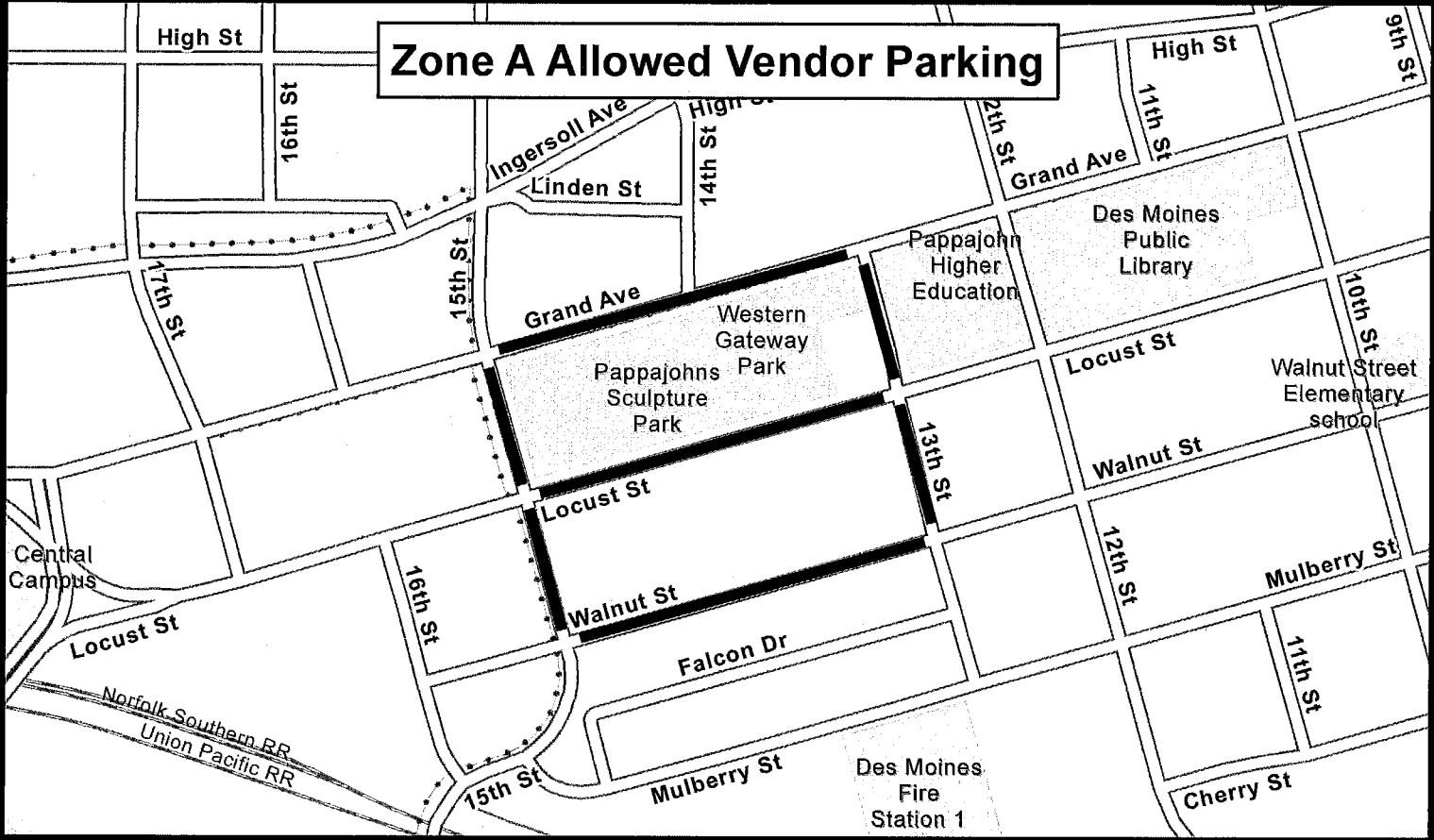
City Clerk's Office
 City of Des Moines
 400 Robert D. Ray Drive
 Des Moines, IA 50309
 Phone - 515-283-4209 (ext. 6)
 Fax - 515-237-1645
cityclerk@dmgov.org

MOBILE FOOD VENDOR APPLICATION
Acknowledgement Form

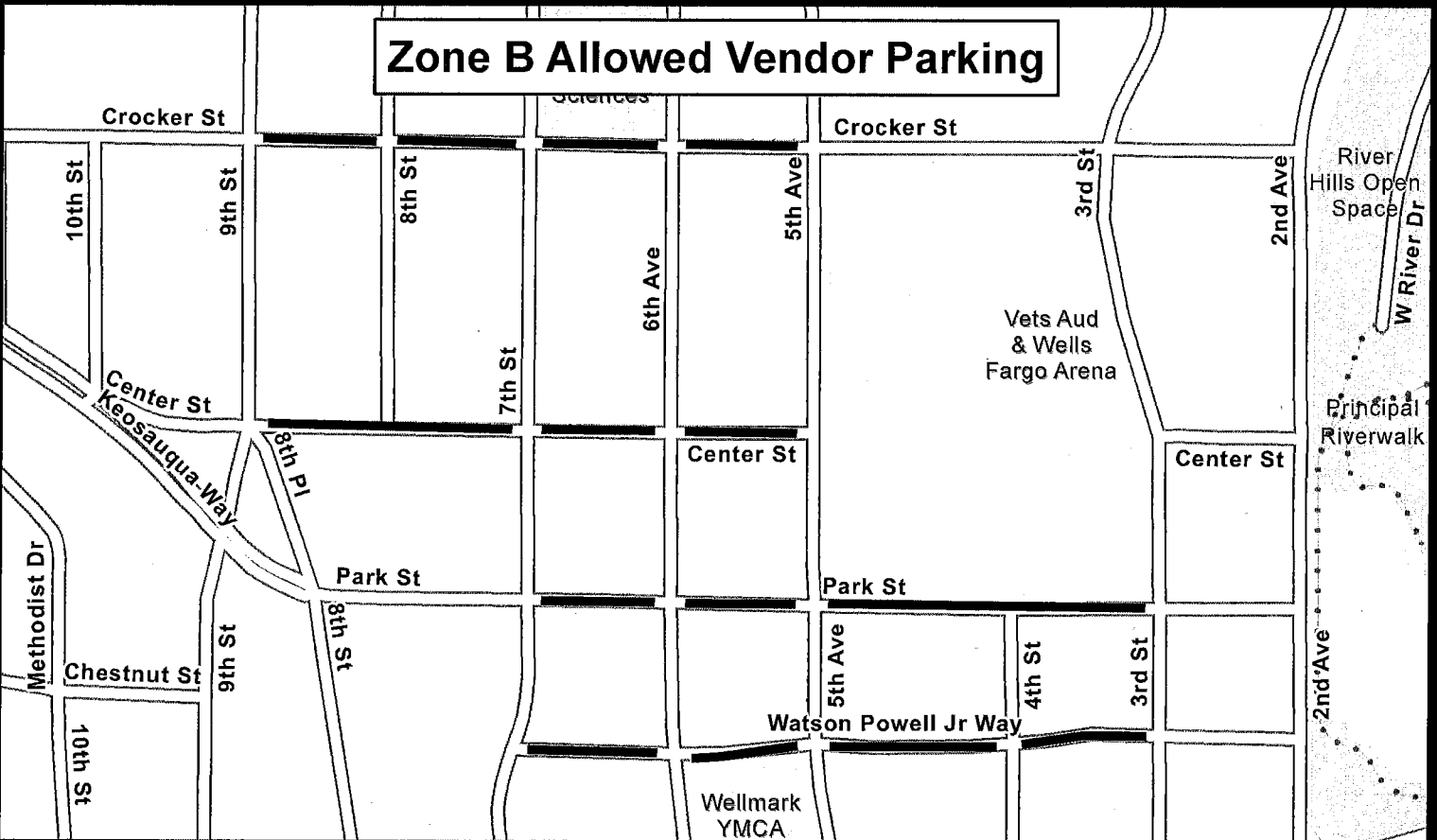
INITIAL	
	APPLICATION
	I understand that any changes to the information I provided on the application must be submitted to the City Clerk's Office within 3 business days
	I understand that this pilot program ends on October 31, 2015, and the City Council maintains the right to cancel or change the program at any time, and that the City will notify me via email of such changes
	I agree to keep the required insurance in place during the term of the permit
	I understand that Mobile Vendor licenses are not transferrable between individuals or businesses, but may be transferred to another Mobile Vendor Vehicle/Unit after notification to the City Clerk
	ZONES/PARKING
	I understand that there are 4 established zones for use by Mobile Food Vendors, and that these zones may be changed from time to time during the pilot program, and that the City will notify me via email of such changes
	I understand that I am not able to conduct sales and that I cannot be parked in one of the designated Mobile Vendor Zones between the hours of 1:30 am to 5:30 am
	I understand that I cannot set up within the affected block and within 2 blocks of the affected blocks of a City of Des Moines permitted street use event
	I understand that I need to be sensitive to outdoor events and venues, (near weddings, festivals, Brenton/Estes, etc.)
	I understand that I must lawfully park my vehicle in a metered, parallel parking space in a Mobile Vendor Zone
	I understand that I cannot use a handicapped parking space (blue meter) or a designated 30-minute parking space (green meter)
	I understand that I cannot conduct sales within 100 feet of any public entrance into the waiting or service area street level restaurant which derives at least 50% of its gross receipts from the sale of food for immediate consumption on the premises, during the hours the restaurant is open for business.
	I understand that if a public official requests that I vacate a location, (for an emergency or street and utility repair purposes), I must comply
	MOBILE UNIT
	I understand that I must conduct my business within a fully enclosed space within the mobile vendor vehicle
	I understand that any trailer used must remain attached to the towing vehicle at all times while parked in the Mobile Vendor Zones, and is able to be moved upon request
	I understand that I must display my Mobile Vendor Permit and my State Sales Tax Permit in a manner to be visible to all persons seeking to conduct business.
	METER HOODS
	I understand that meter hoods should only be used in the Mobile Vendor Zones, and cannot be placed between the hours of 1:30 am and 5:30 am
	I understand that I must use my City-issued meter hood(s) to cover the parking meter associated with the on-street location I'm using
	I understand that I cannot place a meter hood over a meter for a parking space that is then occupied
	I understand that the City may temporarily remove my meter hood to allow access to remove coins, to make repairs, or to allow another hood to be placed underneath in anticipation of work the following day. The City will be responsible for returning my meter hood over the top of the other hood.
	I understand that the City can remove my meter hood if it is found being used improperly
	I understand that I cannot place my meter hood over another meter hood
	I understand that I cannot place my meter hood over any "Residential Parking" meters
	I understand that if my vehicle exceeds one parking space, I must use 2 meter hoods
	REGULATIONS/CONDUCT
	I understand that I must comply with City's Noise Control Ordinance, and that no person shall attempt to sell anything by shouting or raised voices
	I understand that I cannot place tables, chair, furniture, equipment, signage or other material on the ground, streets or sidewalks
	I understand that I must provide one or more trash receptacles readily accessible to customers either in or attached to the Mobile Vendor unit. All trash receptacles and all accumulations of trash and litter shall be removed from the site by the vendor before departing
	I understand that I cannot conduct sales from outside of the vehicle, and sales shall only be conducted on the sidewalk side
	I understand that I cannot sell to any person situated in a motor vehicle, except to reasonably accommodate a customer with a disability
	I understand that all fat, oil, grease and wastewater shall be disposed of at the business or facility identified on the application, and shall be disposed of in compliance with applicable regulations
	I understand that violations of this ordinance shall be considered a municipal infraction
	I understand that my State-issued Mobile Food Unit License requires that I provide access to restrooms for my employees
	I agree to keep the City informed of suggestions or issues experienced during the pilot program

On-Street Mobile Vendor Zones

Zone A Allowed Vendor Parking



Zone B Allowed Vendor Parking



Disclaimer: This map is approximate and may not be complete. City assumes no liability for accuracy. Consult sources listed to verify information. Sources: City of Des Moines Community Development, Engineering, Parks and IT

Created by City of Des Moines Information Technology Department, GIS Division (Date: 3/20/2015)

Allowed Vendor Parking



On-Street Mobile Vendor Zones

Zone C Allowed Vendor Parking



Zone D Allowed Vendor Parking



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 Sources: City of Des Moines Community Development, Engineering, Parks and IT

Allowed Vendor Parking

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