



July 8, 2016

COMMUNICATION REGARDING TRANSEINT MERCHANTS ORDINANCE

The City has been attempting to craft an ordinance amending some license requirements for transient merchants.

There are several points that are being discussed and decided before a final ordinance change can be presented for a final vote. Attached is the list of the points that need to be decided and options for the City Council to consider. They will be presented to the City Council to be voted on one question at a time. The roll call setting out the points for discussion is posted on the City of Des Moines web site in both Spanish and English.

Comments from the public will be accepted by the City Council as each point comes up for consideration and vote. The meeting will be held in the City Council Chambers, at 4:30PM on July 11<sup>th</sup>, at the Municipal Services Center, 1551 E. Martin Luther King Jr. Parkway.

We believe that this will allow the final reading of the ordinance to take place on July 25, 2016.

SuAnn Donovan  
Neighborhood Inspection Administrator  
Deputy Zoning Enforcement Officer  
602 Robert D. Ray Drive  
Des Moines, IA 50309  
[smdonovan@dmgov.org](mailto:smdonovan@dmgov.org)



Date July 11, 2016

DIRECTION TO CITY STAFF REGARDING ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF DES MOINES REGARDING TRANSIENT MERCHANTS AND MOBILE FOOD VENDERS

WHEREAS, the Des Moines City Council by Roll Call No. 16-0789 on May 9, 2016, passed on first reading an ordinance to amend the Municipal Code of the City of Des Moines, Iowa, 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 amending Sections 78-61, 78-62, 78-64, 78-66, 78-68, 78-69, 78-70, 78-70.01, 78-71, 78-72, 78-73, 78-74, 78-200, 78-201, 78-206, 78-207, 78-208, 78-212, and adding and enacting new Sections 78-66.01, and 78-75, and by repealing Section 78-69.01, and by repealing Section 78-67 and adding and enacting new Section 78-67, relating to transient merchants and mobile food vendors" (the "Proposed Ordinance"); and

WHEREAS, by Roll Call No. 16-0984 on June 13, 2016, the Council passed the Proposed Ordinance on second reading and referred the matter to the City Manager to schedule a public input meeting with all stakeholders, and to place the item on the July 11, 2016 City Council agenda; and

WHEREAS, the City Manager scheduled a public input meeting with stakeholders and has reported the input from that meeting to the City Council; and

WHEREAS, based on the input from stakeholders, City staff needs direction as to any changes to the Proposed Ordinance or whether a different ordinance needs to be adopted.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that staff be directed to modify the Proposed Ordinance as follows:

Property owner requirements.

- A. Premise Permit - Permit to be obtained by the property owner, and would allow one or many vendors (one at a time) to be invited to sell on the property. Property must meet current parking lot standards, paving must be in good repair, landscaping must be installed, setbacks must be restored and have an enclosed dumpster one year after next license is issued. Property owner must stripe the area where vendor may locate upon issuance of the license. The area for the truck and all equipment must be 1,000 square feet or less, with no single dimension exceeding 50 feet with three off street parking spaces. City staff will process the application, and the city inspector will work with property owner regarding



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where to locate/stripe the lot, and will conduct a 2nd inspection to ensure compliance. Cost is \$250 per year.

- 1. Require a premise permit; or
- 2. Not require a premise permit.

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

Proximity to Restaurants.

- B. Distance from restaurants. Premise Permit location not allowed within 100 feet of any public entrance into the waiting or service area of any street level restaurant.
  - 1. Require separation of 100 feet from a restaurant; or
  - 2. Not require separation of 100 feet from a restaurant.

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
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TOTAL				



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License holder requirements.

C. Posting of restroom signs. Notice of location of the restroom facilities must be conspicuously posted during operations. Sales of food must only occur during times the restroom is available.

- 1. Require posting of restroom signs; or
2. Not require posting of restroom signs.

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL. Includes MOTION CARRIED and APPROVED labels.

D. State of Iowa required Certified Food Protection Manager. Business shall employ at least one Certified Food Protection Manager, and maintain a copy of the certifications in the vehicle.

- 1. Require a certified food protection manager upon application; or
2. Not require a certified food protection manager as part of the license requirements. (State will require all food sales establishment meet the requirement by January 2018.)

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.



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TOTAL				
MOTION CARRIED	APPROVED			

- E. Fire safety. Vendor vehicle must be inspected by the City of Des Moines Fire Marshal and determined to be in compliance with the fire code (\$100 annual inspection fee). Will need to provide a type I hood with fire suppression system, approved fire extinguisher and approved LP gas tank hook ups.
1. Require compliance with fire safety inspection with the next application; or
  2. Not require fire safety inspection as part of the license requirements.

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.

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F. Insurance. An insurance policy shall include commercial general liability insurance coverage and automobile liability insurance coverage, for operation of the mobile vendor vehicle, or the tow vehicle if the mobile vendor vehicle is a trailer.

- 1. Require limits of liability to include commercial general liability insurance coverage and automobile liability insurance coverage in the amount of \$1,000,000 per occurrence; or
2. Require limits of liability to include commercial general liability insurance coverage in the amount of \$1,000,000 and automobile liability insurance coverage in the amount of \$500,000 per occurrence.

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL. Below the table, it says MOTION CARRIED and APPROVED.

G. Removal of all equipment. The vehicle and all equipment must be removed at any time the vendor is not open for business

- 1. Require the vehicle and all equipment be removed or provide storage in a completely enclosed building on the property at any time the vendor is not open for business, or
2. Not require the vehicle and all equipment be removed at any time the vendor is not open for business.

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.



Roll Call Number

Agenda Item Number

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Date July 11, 2016

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

Hours of operation.

H. Opening time for transient merchants.

1. 5:30 a.m. city wide; or
2. 8:00 a.m. outside the designated city center and 5:30 a.m. inside the designated city center.

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.

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COWNIE				
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I. Closing time for transient merchants.

1. 1:30 a.m. city wide; or
2. 10:30 p.m. city wide; or
3. 1:30 a.m. in the designated city center and 10:30 p.m. outside the designated city center, or
4. 1:30 a.m. in the designated city center and 10:30 p.m. outside the designated city center if the permitted sales area is less than 75' from the lot line of an adjoining residential property, or
5. 1:30 a.m. in the designated city center and 10:30 p.m. outside the designated city center if the permitted sales area is less than 75' from the lot line of an adjoining residential property with sales allowed until 1:30 a.m. on weekends and designated city holidays.

Moved by \_\_\_\_\_ to select option \_\_\_\_\_.

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MOTION CARRIED	APPROVED			





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APPROVED AS TO FORM:

*Thomas G. Fisher Jr.*

Thomas G. Fisher Jr., Assistant City Attorney

**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

\_\_\_\_\_  
Mayor