



Roll Call Number

16.1153

Agenda Item Number

47

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:



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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 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 Coleman to adopt the following items:

- 1. Require a Premise Permit for all new applicants; for locations whose premise/licensee applications are currently pending or issued at the time of publication of the ordinance, a Premise Permit would be required during their next permit/license cycle.
2. Reduce the Premise Permit fee to \$100 per year
3. Require a dumpster enclosure:
i. For new locations, dumpster enclosure required immediately
ii. For all locations for which permits are currently pending or issued at the time of publication of the ordinance, a dumpster enclosure will be required one year after their next permit cycle.

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



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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 Coleman to select option 1, but to exempt those premise/licensee applications for which permits are currently pending or issued at the time of publication of the ordinance, until their next permit cycle.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			



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License holder requirements

- C. Posting of restroom signs. Notice of location of the bathroom 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 Hensley to select option 2; continue to require a restroom agreement, but not require the restroom be open during all hours the vendor is open for business.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN		✓		
GATTO		✓		
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	5	2		
MOTION CARRIED			APPROVED	



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D. 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 Coleman to select option 1.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	



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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 Coleman to require new and renewal applicants to pass a first-time Fire Inspection (\$100) for each vehicle; refer to the City Manager to work with the Fire Department to make a recommendation regarding necessary follow-up inspections (at no charge). The Type 1 hood with fire suppression system requirement for those licensees with vehicles already in use in conjunction with licenses which are currently pending or issued at the time of publication of the ordinance will go into effect after December 31, 2017. Any replacement vehicles will not be exempt from the requirement.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	



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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 Moore to select option 2

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	



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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 Coleman to select option 1; refer to the City Manager for recommendation regarding a stronger definition of reasonable absence, when equipment may remain on the property but the vendor is not onsite; and to provide a recommendation regarding what equipment/tables could permanently remain on the property.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	





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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 Coleman that all grandfathered licensees – (license application that are currently pending or licenses that are issued at the time of publication of the ordinance) are allowed to operate between 5:30 AM and 1:30 AM unless their location or ownership changes. For all transient merchants who are not grandfathered licensees and for all premises with permits other than those with a grandfathered licensee operating on the premises, the hours of operation are allowed to be between 5:30 AM and 1:30 AM unless the premise is located within 125’ of any residentially-zoned property. If the Premise is located within 125’ of residentially-zoned property, vendors are allowed to operate between 8:00 AM and 10:30 PM

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	6	1		
MOTION CARRIED	APPROVED			



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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 \_\_\_\_\_.

No vote was taken on Item I. This was considered in conjunction with item H.

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

*Diane Rauh*  
City Clerk

*T. M. Franklin*  
Mayor