



CITY OF NAMPA
Special Council Meeting
March 16, 2023
City Hall – 411 Third Street South
Livestreaming at <https://livestream.com/cityofnampa>
7:00 AM

Call to Order

Invocation and Pledge to Flag

Roll Call

(1) New Business

- 1-1. **Discussion:** Review of proposed Ordinance amending Title 5, Chapter 12 – Alcoholic Beverage Control (Char Tim, City Clerk’s Office)
 - 1-2. **Discussion:** Review of proposed Ordinance establishing a Mobile Food Vendor license (Char Tim, City Clerk’s Office)
 - 1-3. **Discussion:** Allocation of Republic Services natural gas rebate in the amount of \$76,371.
 - 1-4. **Discussion:** Legislative and Other Updates (Rick Hogaboam, Mayor’s Office)
-

Adjournment

Next Meeting

[Regular Council at 5:30 PM – Monday, March 20, 2023 - City Council Chambers](#)

- ◆ Individuals, who require language interpretation or special assistance to accommodate physical, vision, hearing impairments, please contact the City Clerk’s Office at Nampa City Hall, (208) 468-5415. Requests should be made at least five (5) days prior to the meeting to allow time to arrange accommodations
- ◆ Any invocation that may be offered before the official start of the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council and do not necessarily represent the religious beliefs or views of the Council in part or as a whole. No member of the community is required to attend or participate in the invocation and such decision will have no impact on their right to participate actively in the business of the Council. Copies of the policy governing invocations and setting forth the procedure to have a volunteer deliver an invocation are available upon written request submitted to the City Clerk

ORDINANCE NO. _____

AN ORDINANCE ENACTED BY THE NAMPA CITY COUNCIL AMENDING TITLE 5, CHAPTER 12 SECTIONS 16 AND 17 OF THE NAMPA CITY CODE, ADDING A CATERING REQUIREMENT; ADDING LANGUAGE REGARDING THE ASSESSMENT POINTS FOR A CATERING PERMIT, ADDING PROCEDURES FOR A HEARING ON LICENSE SUSPENSIONS OR REVOCATIONS; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HEREWITH.

BE IT ORDAINED by the Mayor and Council of the City of Nampa, County of Canyon, State of Idaho:

SECTION 1. That Title 5, Chapter 12, be amended by the addition of language to 5-12-16 of the Nampa City Code, amending sub-section A and adding a new sub-section C as follows:

An alcoholic beverage catering permit is subject to the following restrictions:

- A. The catering permit is designed for special occasions. A permit shall not be issued to a person, or for the benefit of another person, more than two times per month for use at the same location. Nor shall any permit be issued to anyone who is operating (i) two or more separate establishments under one license, or (ii) for the benefit of a person whose alcohol license has been revoked, canceled, denied, or suspended.
- B. Large parties or conventions held outdoors need to have a security plan in place. This information needs to be presented to the parks and recreation department.
- C. A catering permit is subject to all provisions of Nampa City Code 5-12-17 and may be assessed points, and subject to suspension or forfeiture, as set forth therein.

SECTION 2. That Title 5, Chapter 12, Section 17(III)(3)(F)(1) be amended as follows:

- 1. The council, upon receiving a written appeal for a license violation determination, ~~or a suspension/revocation recommendation,~~ shall conduct a hearing within 30 days of receipt of the appeal. The notice of the hearing date and time shall be served upon the licensee by leaving a copy at the licensed premises or by the city clerk mailing the notice by certified mail to the licensee at the licensed premises.

SECTION 3: That Title 5, Chapter 12, Section 17(III)(3) be amended by the addition of a new sub-section (G) as follows:

ORDINANCE NO. _____

(G) The following hearing procedures shall apply to any recommendation from the ARC for a license revocation or suspension.

1. The council, upon receiving a suspension/revocation recommendation, shall appoint a Hearing Officer to conduct a hearing within sixty (60) days of appointment.
2. Notice shall be provided to the Hearing officer, the ARC designee and the license holder by the City Clerk of the hearing date, time, and location along with these procedural rules. This notice shall be served upon the licensee by leaving a copy at the licensed premises or by the city clerk mailing the notice by certified mail to the licensee at the licensed premises.
3. The hearing officer shall have be empowered to manage the scheduling and process for the hearing, to include the following:
 - a. The appellant/licensee may appear in person, and may appear with legal counsel, to present their position.
 - b. The hearing will be conducted in an informal manner, the rules of evidence and civil procedure do not apply. Each party shall have up to twenty (20) minutes to present their argument and exhibits, if any.
 - c. Each party may call any witnesses that they believe possess relevant information, and the other party may cross examine the witness.
 - d. The ARC designee and the license holder shall exchange with each other a list of their proposed witnesses with contact information, as well as a complete copy of any exhibits that they will present to hearing officer in support of their position no less than five (5) business days before the hearing. An extra copy shall be provided by each party for the hearing officer and delivered at the hearing. A failure to abide by this requirement will lead to the exclusion of the exhibit or witness at the hearing. The hearing officer retains the authority to control the admission or exclusion of evidence that is cumulative, irrelevant or improper for any other purpose.
 - e. At the conclusion of the hearing, the hearing officer shall prepare within ten days a written recommendation to the City Council with a recommended decision, and a reasoned statement that explains the basis for the recommendation based on the evidence presented at the hearing.
 - f. The City Council shall place the recommendation upon the next City Council meeting for its review a written Final Order on the recommendation of suspension/revocation. The City Council will approve the recommendation unless there is clear error in the process set forth in this sub-section. If clear error is found the matter may be remanded back to the hearing officer with specific direction.
 - g. The license holder shall be provided a written copy of the Final Order once issued by the City council. The effective date of the council action shall be as set forth by the City Council and included in the notice to the license holder.

- h. Any party aggrieved by this Final Order may appeal to District Court by filing a petition in the district court of Canyon County, Idaho. An appeal must be filed within twenty-eight (28) days of the issue date of this final order.

SECTION 3. That Title 5, Chapter 12, Section 17(III)(C) be deleted, and that the points categories be relocated into NCC 5-12-17(III)(E)(3) as follows:

3. Point assessment outcome. When the cumulative points assigned to a liquor license reach the minor, significant, or major levels, the committee shall determine what penalties and remedies will be assessed against a licensee. Accumulated point classifications

Minor: (.5 to 3 Points): When points assigned to a liquor license combined with any points previously assessed which have not yet expired, reach the *minor* category, the ARC may place the licensee on probationary status for a period not to exceed six months. However, for any point assessment that would otherwise bring a licensee into the minor category, the committee may in its discretion and in lieu of the assessment of points for the current violation, allow the licensee and its employees to complete specialized liquor law enforcement training offered by the City of Nampa Police Department and/or the Idaho State Police.

Significant: (3.5 to 7.5 Points): When points assigned to a liquor license combined with any points previously assessed which have not yet expired, reach the *significant* category, the committee may require licensees and employees to complete the specialized training, may suspend the license for a period not to exceed 30 days, and/or place a licensee on probationary status for a period not to exceed one year.

Major: (8.0 Points and above): When points assigned to a liquor license combined with any points previously assessed which have not yet expired, reach the *major* category, the committee may put forth a recommendation to city council to suspend or revoke the license. The city council shall only elect to suspend or revoke a liquor license after conducting a hearing pursuant to subsection 5-12-17(II)(F).

This ordinance is hereby declared to be severable. If any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purposes of the ordinance before the declaration of partial invalidity.

SECTION 4. All ordinances, resolutions, orders and parts thereof in conflict herewith are repealed. This ordinance shall be in full force and effect from and after its passage, approval, and publication, according to law.

PASSED BY THE COUNCIL OF THE CITY OF NAMPA, IDAHO, THIS ____ day of February, 2023.

APPROVED BY THE MAYOR OF THE CITY OF NAMPA, IDAHO, THIS ____ Day of February, 2023.

Approved:

By _____
Mayor

Attest:

By _____
City Clerk

CHAPTER 12. - ALCOHOLIC BEVERAGE CONTROL

Sections:

5-12-1. - Definitions.

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

Alcoholic beverage: Any liquor, wine and/or beer as defined by Idaho Code Title 23.

Beer garden: A particular location at a formal or social gathering, generally held at a park, but not limited to, where liquor, beer or wine can be donated or sold to the public with a catering permit if stipulated upon by the parks and recreation director and the event coordinator; and if they are in compliance with the specific regulations for the city parks.

Catering permit: Permit issued, which authorizes the permittee to serve and sell liquor, beer or wine by the drink, at a party or a convention, not to exceed five consecutive days in length.

Convention: A formal meeting of members, representatives, or delegates, of a political party, fraternal society, profession, or industry.

Party: A social gathering including but not limited to, weddings, birthdays, family gatherings, and special holiday celebrations.

(Ord. 3986, 10-3-2011; Amd. Ord. 4264, 6-20-2016, eff. 7-1-2016; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 1, 1-19-2021)

5-12-2. - License required.

It is unlawful for any person to offer for sale, sell, or in any manner dispose of liquor by the drink, wine, or beer without first obtaining the appropriate license as required by this chapter and Idaho Code Title 23.

(Ord. 3986, 10-3-2011; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 2, 1-19-2021)

5-12-3. - Investigation.

- A. Upon receipt of an application for an on-premises alcoholic beverage license, or the renewal of an existing on-premises license, the city shall conduct an investigation of the statements contained in the application or renewal, an investigation of the premises where the applicant proposes to do business, an investigation of the required server training elements set forth in subsection B, or such other and further investigations as the city may deem necessary.

- B.

Required server training.

1. As a prerequisite to the issuance of any alcoholic beverage license in Nampa, and as a condition of continued use of an issued liquor license in Nampa, each license holder shall ensure that each person who dispenses alcoholic beverages has taken a "server training program" as described herein.
2. Only a server training program enumerated in written administrative policy by the chief of police shall be recognized as an approved server training program for purposes of this chapter.
3. The chief of police or designee shall approve a server training program upon a determination that such program educates participants on, and requires participants to successfully pass an examination covering the following topics:
 - a. Consistently and accurately verifying patrons' proof of age and identification;
 - b. Recognizing false and altered identification documents;
 - c. Understanding the effects of alcohol on the human body;
 - d. Monitoring patrons' alcohol intake and/or behavior;
 - e. Recognizing intoxicated persons;
 - f. Methods of refusing to sell or serve alcohol to intoxicated persons;
 - g. Providing alternatives to alcoholic beverages;
 - h. Problem solving in dealing with intoxicated and/or belligerent patrons; and
 - i. All state and local laws and rules pertaining to the sale and service of alcoholic beverages.
4. Every Licensee shall also comply with the following for any person who dispenses alcoholic beverages on-premises:
 - a. Ensure that every person who dispenses alcoholic beverages on-premises complete his/her server training program within 30 days of the date upon which he or she begins employment or operation as a server at a licensed establishment and shall maintain such certification at all times of employment or operation as a server, updating such certification as necessary. Upon a server's completion of one hour of work, the 30-day time period for certification shall begin and will be calculated cumulatively and shall be tolled only by the cessation of work for one year or longer,
 - b. Maintain a written record of the certification for every employee who serves alcoholic beverages, and
 - c. Provide proof of certification for each employee to a law enforcement officer upon request.
- 5.

Licenses that are operating establishments where alcoholic beverages are served and consumed on the premises, as to each server employed or operating on the licensed premises, shall ensure that (i) each server is or becomes certified as set forth in this section, and that each server maintains his or her certification throughout his or her employment or operation as a server, (ii) maintain a copy of each server's certificate, and (iii) provide any server's certificate to a law enforcement officer upon request.

(Ord. 3986, 10-3-2011; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 3, 1-19-2021; Ord. No. 4652, § 1, 2-22-2022)

5-12-4. - Prerequisite.

No city alcoholic beverage license shall be issued until the applicant provides the applicable state and county license numbers.

(Ord. 3986, 10-3-2011)

5-12-5. - Age requirement.

No alcoholic beverage license shall be granted to anyone who is under the age of 21.

(Ord. 3986, 10-3-2011)

5-12-6. - Council approval.

Initial applications for an alcoholic beverage license shall be submitted to council for approval or denial. A decision shall be made by the council within 30 days of the final submission of an application. Notwithstanding any other provision of this section to the contrary, the Council may also require as a condition of an issuance or any renewal of an alcohol beverage license that the licensee and/or its employees complete specialized liquor law enforcement training offered by the City of Nampa Police Department and/or the Idaho State Police.

(Ord. 3986, 10-3-2011; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 4, 1-19-2021)

5-12-7. - Term of license.

Licenses issued under this chapter shall expire at one o'clock a.m. on June 1 of the following year.

(Ord. 3986, 10-3-2011)

5-12-8. - Fees.

Fees are established by council resolution, pursuant to Idaho Code. All fees shall be submitted at the time the application is presented to the clerk. If an application is denied, the fee shall be refunded, at the discretion of the city clerk and based upon actual costs incurred by the city during the application process.

License revocations shall not result in any fee refund. Beer and wine licenses shall be prorated by the calendar quarter.

(Ord. 3986, 10-3-2011; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 5, 1-19-2021)

5-12-9. - Posting of license.

Alcoholic beverage licenses shall be posted in a conspicuous place on the premises and kept and posted during the full period of time for which the license was issued.

(Ord. 3986, 10-3-2011)

5-12-10. - Revocation for failure to place into service.

Any license for the sale of liquor by the drink issued by the City of Nampa shall be placed into service by the licensee within six months of its issuance, which requirement shall be considered met once the premises for which the license is issued is made open to the licensee's clients or customers for at least 30 hours per week for 12 consecutive weeks. After the foregoing initial term, the premises for which the license is issued shall continue to be open an average of 30 hours per week, which average shall be calculated based upon the total hours the premises are open in each month. Failure to meet the foregoing requirements may result in a license revocation. Prior to such revocation, city council shall hold a hearing at which the licensee may provide evidence and testimony concerning the aforementioned requirement. When the mayor and council revoke a license pursuant to this section, they shall specify, in writing, the statutes, ordinances and standards used in evaluating the application, the reasons for revocation, and the actions, if any, that the applicant could take to renew the license. The written statement asserting the reason for the license revocation decision by the city council shall be delivered to the licensee within 30 days of the council decision.

(Ord. 3986, 10-3-2011; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 6, 1-19-2021)

5-12-11. - Restrictions.

No license for the sale of liquor, wine, or beer by the drink shall be issued for any premises in any neighborhood which is predominantly residential or within 300 feet of the property boundaries of any public school, church, or any other place of worship, measured in a straight line to the nearest entrance to the licensed premises, except with the approval of the city council. This limitation shall not apply to any duly licensed premises that at the time of licensing did not come within the restricted area but subsequent to licensing same came therein. Additional restrictions may be placed on any such business under the planning and zoning code of the city.

(Ord. 3986, 10-3-2011; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 7, 1-19-2021)

5-12-12. - Transfers.

Any licensed person desiring to change his place of business from one location to another or from one person to another shall file with the city clerk an application and transfer fee. The clerk shall make investigation of the new proposed place of business and/or of the new licensee and submit the application to council for approval as a new license.

(Ord. 3986, 10-3-2011; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 8, 1-19-2021)

5-12-13. - Hours and days of sale.

Liquor by the drink. In accordance with Idaho Code section 23-927, no liquor may be sold, offered for sale or given away upon any licensed premises on the following days during the following hours:

Thanksgiving from one o'clock a.m. to ten o'clock a.m. the following day.

Christmas from one o'clock a.m. to ten o'clock a.m. the following day.

On any other day between one o'clock a.m. and ten o'clock a.m.

(Ord. 3986, 10-3-2011; Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 9, 1-19-2021)

5-12-14. - Violation.

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor.

(Ord. 3986, 10-3-2011)

5-12-15. - Catering permits.

An alcoholic beverage catering permit shall be limited to authorization to sell liquor or beer or wine, or any combination thereof, based upon the type of license which the applicant possesses. A catering permit is required to have a beer garden.

Applications for such a permit shall be made to the city clerk, on such form as prescribed by the city, which shall contain at a minimum, but not limited to, the following information:

- A. The name and address of the applicant and the number of his/her state liquor, beer or wine license.
- B. The dates and hours during which the permit is to be effective, not to exceed five consecutive days.
- C. The names of the organizations, groups, or persons sponsoring the event.
- D.

The address at which the liquor, beer or wine is to be served, and if a public building, the rooms in which the liquor, beer or wine is to be served.

E. The purpose for the party or convention.

(Ord. 4264, 6-20-2016, eff. 7-1-2016)

5-12-16. - Catering permit restrictions.

An alcoholic beverage catering permit is subject to the following restrictions:

- A. The catering permit is designed for special occasions; applicants will not be allowed to request catering permits on a continuous basis such as social gatherings week after week at one establishment.
- B. Large parties or conventions held outdoors need to have a security plan in place. This information needs to be presented to the parks and recreation department.

(Ord. 3986, 10-3-2011)

5-12-17. - Denials of license applications, renewals, and revocations of licenses.

- I. *Denial of a license application.* The mayor and council may deny a license application for fraud and misrepresentation in its procurement; for a violation of the laws of the United States, the State of Idaho, or the City of Nampa regarding the sale of alcoholic beverages; for a violation of any of the provisions of this chapter; for having served or having allowed to be served an alcoholic beverage within the city limits without a valid Nampa City issued license, or and for any conduct or act of the licensee or any employees, or any conduct or acts permitted by him or them on the premises where such business is conducted, tending to render such business or premises as a public nuisance or a menace to the health, peace, safety or general welfare of the city.
- II. *Renewal of license application.* The mayor and council may deny a license renewal application for a licensee having accumulated at least three points against their license since their most recent license renewal or issuance. Renewal of such licenses may only be granted by the city council after a public hearing at which the licensee or license applicant appears in person to provide testimony to demonstrate that procedures have been put in place that in the discretion of the city council are designed to avoid and reduce future violations. Licenses without the assignment of at least three points may be renewed by consent agenda through the city council.

If city council approves a liquor license application from a person or entity that has served or allowed to be served an alcoholic beverage within Nampa city limits without a valid Nampa City issued license, that new license shall be issued with alcohol license points assessed to it of no less than one and no more than six "license violation points", pursuant to section 5-12-17.III. Furthermore, because the city incurs additional

staff time and expense investigating the prior conduct of the applicant, the license applicant shall be assessed an additional administrative fee of \$250.00, which shall be in addition to all other fees and charges required for the application for the respective city liquor license.

When the mayor and council deny a license, or refuse to renew a license, they shall specify, in writing, the statutes, ordinances and standards used in evaluating the application, the reasons for denial, and the actions, if any, that the applicant could take to obtain the license, transfer, or renewal. The foregoing shall be provided the applicant, in writing, within 30 days of a decision to deny an application.

III. *Revocation of an existing license.* Notwithstanding any other provision of this Code to the contrary, any license issued under this title 5, chapter 12, of the Nampa City Code, may be revoked or suspended by the City of Nampa pursuant to the following Alcoholic License Point System (ALPS):

A. *General provisions.*

1. Under the Alcoholic License Point System, licensee misconduct and the failure to exercise proper controls over an establishment licensed to sell liquor, beer, and/or wine, by the drink may result in a revocation or suspension of said license based upon accumulated "points" assigned to a licensee for said misconduct and failures to exercise proper control. The provisions of ALPS provide licensees in the City of Nampa with a clear description of what circumstances will result in a point being assigned to their license, the numbers of accumulated points that will result in certain consequences for the licensee, and the procedures and process for point allocations, hearings, and appeals.
2. *Licensee responsible for conduct of employees.* License violations which occur due to the conduct of an employee or agent of a licensee shall be imputed to the licensee. Any points assessed for a license violation by an employee or agent of a licensee shall be assessed against the licensee's liquor license.
3. *Licensee responsible for failure to exercise proper control.* License violations which occur due to the failure of the licensee or its employees or agents to exercise proper control over the licensed premises shall be imputed to the licensee. Failure to exercise proper control shall mean acts or omissions which a reasonable person would believe would result in a license violation, and which result in a license violation, as defined herein.
4. *Burden of proof, liability.* Points may only be assessed against a license when the city determines, by a preponderance of the evidence, that a licensee or an employee or agent of a licensee, committed a license violation. Points may be assessed against a license even if the individual who performed the action or conduct that constituted the license violation was not convicted of committing a crime.

B.

License point violations. A license violation can occur on the licensed premises, in the parking lot for the premises, or in an adjacent area under the control of the licensee. License violations may result in the assessment of points against a liquor, beer, or wine license. If a single incident or occurrence would constitute multiple license violations as listed below, each license violation shall be assessed points according to the schedule below and combined into a total score for that incident. The committee has discretion to assess points within the range corresponding to the particular violation set forth below. For the purposes of this section 5-12-17, license violations and applicable points shall include the following:

1. *Training.* Failure of a licensee, its officers, managers, employees and agents to undergo training as may be required by this section. .5 to 1 Point.
2. *Probation violation.* A license violation arising during a probationary period, as applied to a licensee in subsection 5-12-17(II)(D)(6). .5 to 2.0 Points.
3. *Alcohol regulations.* Any action or conduct which violates any provision of federal, state, or local law with respect to the manufacture, sale, distribution, solicitation, or use of alcoholic beverages. .5 to 2.0 Points.
4. *Homicides.* Any homicide offense under Idaho Code Title 18, Chapter 40. 6.5 Points.
5. *Weapons.* Any action or conduct which violates any provision of Idaho Code Title 18, Chapter 33. 1.0 to 4.0 Points.
6. *Controlled substances.* Any action or conduct which violates any provision of Idaho Code Title 37, Chapter 27. 1.0 to 3.5 Points.
7. *Prostitution.* Any action or conduct which violates any provision of Idaho Code Title 18, Chapter 56. 4.0 to 6.5 Points.
8. *Human trafficking.* Any action or conduct which violates any provision of Idaho Code Title 18, Chapter 86. 4.0 to 6.5 Points.
9. *Gambling.* Any action or conduct which violates any provision of Idaho Code Title 18, Chapter 38. .5 to 2.0 Points.
10. *Assault and battery.* Any action or conduct which constitutes assault or battery actions and violates any provision of Idaho Code Title 18, Chapter 9. 1.0 to 3.5 Points.
11. *Sex crimes.* Any action or conduct which violates any provision of Idaho Code Title 18, Chapters 15 and 66. 6.5 Points.
12. *Occupancy.* Exceeding occupancy load for the premises as stated on the occupant load limit sign posted in the premises or failing to post the occupant load limit sign for the premises in a conspicuous place near the main exit or exit access doorway of the premises. .5 to 2.0 Points.
13. *Open containers.* Allowing a person to exit the licensed premises while possessing an open container of alcoholic beverage. .5 to 1.5 Points.

14. *Right-of-way encroachment.* The licensee violates any provision of a right-of-way encroachment license. .5 to 1.5 Point.
 15. *Hours of operation.* The licensee violates hours of operation as defined in section 5-12-13, Nampa City Code. .5 to 1.5 Points.
 16. *Property maintenance.* The licensee violates the International Property Maintenance Code, as adopted by Title 4, Chapter 11, Nampa City Code. .5 to 1.5 Point.
 17. *General violations.* All other violations of law or the City Code. .5 to 3.5 Points.
 18. *Site specific DUI.* A patron of a licensee that receives a DUI in Nampa City limits immediately following his/her leaving the licensed premises, and under facts and circumstances that give law enforcement credible evidence that the cause of the DUI was alcohol consumed from the licensed premises. 1.0—4.0 Points.
 19. Any violation of the requirements of section 5-12-3.B. .5—2.5 Points.
- C. *Accumulated point classifications.*
1. Minor: .5 to 3 Points.
 2. Significant: 3.5 to 7.5 Points.
 3. Major: 8.0 Points and above.
- D. *Duration of accumulated points.* Each assessment of points pursuant to this chapter shall remain on the licensee's record with the city for a period of 12 months following the date of assessment.
- E. *License violation review procedures.* Notification of the point system as stated herein, and a copy of this section, will be provided to each licensee by the city clerk upon the issuance of a license.
1. *Alcohol review committee (ARC).* A committee consisting of the chief of police or his/her designee, city clerk or his/her designee, chief of staff or his/her designee, building official or his/her designee, and planning and zoning director or his/her designee. This committee shall constitute the alcohol review committee (Committee), which Committee shall be responsible for administering the provisions of the ALPS. The chief of police shall be the chair of the committee and shall schedule and conduct meetings of the committee upon notification that a license violation has occurred requiring committee action. The committee shall abide by the applicable provisions of the Idaho Open Meeting laws.
 2. The ARC shall meet monthly for the purpose of reviewing any new incident report of an alleged violation of this chapter by a licensee. At each meeting the committee shall review the written incident report provided to the committee by the chief of police and the committee shall determine from the content of that report whether there is a factual basis to conclude that a prohibited act as set forth in section 5-12-17(II)(B) has occurred.

- i. If the ARC determines that there is not a factual basis to believe that a licensee or an employee or agent of a licensee committed a license violation, the city clerk will notify the licensee that the committee will take no further action with respect to that incident. The city clerk within five business days send by certified mail a copy of the Incident report to the licensee, along with written notice of the committee's determination. The incident report shall be considered closed with no further action.
 - ii. If the ARC determines that there is a factual basis to believe that a licensee or an employee or agent of a licensee committed a license violation, the committee shall assess points against the license of the licensee in accordance with this section. The city clerk within five business days of that determination and assessment shall have a Nampa Police Department designee hand deliver a copy of the incident report to the licensee. If that cannot be accomplished within the five-day period the city clerk shall instead send a copy to the licensee by certified mail along with a notification of the points assessed against the applicable liquor license for each violation, and any previous points assessed which have not yet expired. The committee may also provide written notice of the assessment to the Idaho State Police, Alcohol Beverage Control.
3. *Point assessment outcome.* When the cumulative points assigned to a liquor license reach the minor, significant, or major levels, the committee shall determine what penalties and remedies will be assessed against a licensee.
 - i. When points assigned to a liquor license, combined with any points previously assessed which have not yet expired, reach the minor category, the ARC may place the licensee on probationary status for a period not to exceed six months. However, for any point assessment that would otherwise bring a licensee into the minor category, the committee may in its discretion and in lieu of the assessment of points for the current violation, allow the licensee and its employees to complete specialized liquor law enforcement training offered by the City of Nampa Police Department and/or the Idaho State Police.
 - ii. When points assigned to a liquor license combined with any points previously assessed which have not yet expired, reach the significant category, the committee may require licensees and employees to complete the specialized training, may suspend the license for a period not to exceed 30 days, and/or place a licensee on probationary status for a period not to exceed one year.
 - iii. When points assigned to a liquor license combined with any points previously assessed which have not yet expired, reach the major category, the committee may put forth a recommendation to city council to suspend or revoke the license. The city council shall only elect to suspend or revoke a liquor license after conducting a

hearing pursuant to subsection 5-12-17(II)(F).

- iv. In making a determination as to the appropriate penalty or remedy to be imposed on a licensee, the committee or council may consider all circumstances related to the underlying license violation.
 - v. Any action or decision of the committee shall be effective 14 calendar days after the city clerk has sent by certified mail the incident report and assessment of points to the licensee, unless a timely appeal is filed in which case any consequence is tolled during the pendency of the appeal.
4. *Appeals.* A licensee may appeal a license violation determination by submitting a written appeal to the city clerk within 14 calendar days of the personal service of the notice upon the licensee, or from the date the city clerk mailed the notification of the incident report and assessment of points, whichever occurs first.
5. The appeal will be heard by the city council, which hearing shall be conducted pursuant to the hearing procedure under section 5-12-17(II)(F). A written appeal must contain detailed facts, and be based upon, either of the following two reasons:
- i. Specific new factual evidence that was not included within the incident report.
 - ii. A procedural error regarding the committee assessment process.

F. *Hearing procedures.*

1. The council, upon receiving a written appeal for a license violation determination, or a suspension/revocation recommendation, shall conduct a hearing within 30 days of receipt of the appeal. The notice of the hearing date and time shall be served upon the licensee by leaving a copy at the licensed premises or by the city clerk mailing the notice by certified mail to the licensee at the licensed premises.
2. The appellant/licensee may appear in person, and may appear with legal counsel, to present their position. Although the hearing will be conducted in an informal manner, the hearing will be recorded as part of the city council's normal public hearing process. The mayor shall preside over the hearing. The rules of evidence shall not apply, except the mayor may exclude evidence which is irrelevant or repetitious.
3. As a supplement to appeal documents provided pursuant to Nampa City Code section 5-12-17(II)(E)(4)(i), (ii) above, each party is entitled to ten minutes to present their position, starting with the representative from the alcohol review committee, followed by the appellant. Any new documentation provided by either party at the hearing will become a part of the record. The council may ask questions of either party, but the parties will not ask questions of each other or of the council.
- 4.

At the end of each side's ten-minute presentation the council shall deliberate and vote to either (i) affirm the decision of the ARC, (ii) overturn it, or (iii) make any alteration to either the assessment of points, or to the consequences imposed for such assessment, as the council deems appropriate in light of all evidence and circumstances presented.

5. The council shall make written findings of fact and conclusions of law within 60 calendar days of the hearing. Such findings shall be based upon competent and substantial evidence contained in the hearing record as a whole.
6. A copy of the council decision, findings of fact, and conclusions of law shall be delivered by the city clerk to the licensee by certified mail. Any revocation/suspension imposed by said written finding of facts and conclusion of law shall be effective on the date set forth within the decision.

(Amd. Ord. 4503, 5-18-2020; Ord. No. 4553, § 10, 1-19-2021; Ord. No. 4558, § 1, 2-16-2021; Ord. No. 4573, § 10, 5-17-2021; Ord. No. 4652, §§ 2, 3, 2-22-2022)

Discussion: Proposed Ordinance Amending Title 5, Chapter 12 (Alcoholic Beverage Control)

City Council Workshop – March 16, 2023

Purpose of Today's Discussion

- Provide an overview of recommended changes by the Alcohol Review Committee.
- Confirm that the current composition of the Alcohol Review Committee and the review process are still appropriate.
- Determine Next Steps

Reasons for Recommended Changes

- Provide the City the ability to address complaints on businesses when they are using the City's Alcohol Catering Permit but do not have a City Alcohol License.
- Clarify the City's intent for the use of Alcohol Catering Permits.
- Implement Legal's recommendation on a new process for hearings for recommended suspensions or revocations from the Alcohol Review Committee.
- Administrative clean-up.

Recommended Changes

- Alcohol Catering Permits
 1. Be subject to all provisions of NCC 5-12-17 (Denials of license applications, renewals, and revocations of licenses).
 - Could be assessed points by the Alcohol Review Committee.
 - Would be subject to suspension or forfeiture of obtaining Alcohol Catering Permits from City.
 2. Limit the number of permits issued to business each month per location.
 - Change from “unlimited” to TWO times per month per location per applicant.
 3. Not allow permits to be issued for the benefit of a person whose alcohol license has been revoked, canceled or denied.
 - Additional staff recommendation: Add “or suspended”.

Recommended Changes (continued)

- Alcohol Beverage Control Hearings
 1. Appeals on license violation determinations would be heard by Council.
 2. Recommendations from the Alcohol Review Committee for a license revocation or suspension would be heard by a Hearing Officer.
 - Hearing Officer to submit recommended decision and reasoned statement to City Council for their consideration at the next Council meeting.

Recommended Changes (continued)

- Administrative Clean-up
 1. Move the Accumulated Point Classifications section to the Point Assessment Outcome section.

Composition of the Alcohol Review Committee

- Chief of Police or designee (Chair)
 - City Clerk or designee
 - Chief of Staff or designee
 - Building Official or designee
 - Planning and Zoning Director or designee.
-
- ❖ Confirm that current Committee composition is still appropriate.
 - *Option:* Add 1 or 2 Community Members

Review Process of the Alcohol Review Committee

- Meets monthly to review any new written incident report of an alleged violation, which is provided by the Chief of Police.
 - Based on content of report, Committee determines if there is a factual basis of a violation and will assess points and/or recommend suspension/revocation of the license.
 - Licensees are informed of the review once the Committee has made a determination.
- ❖ Confirm current Committee process is still appropriate.
- *Option:* Invite the Licensee to speak for 5-10 minutes prior to Committee making a decision.

Next Steps

- Determine if Council would like any of the additional recommended Code changes included in the request that will be presented at a future public hearing.
- Notice Public Hearing in newspaper.
 - Potential Council Public Hearing in April/May 2023.
- *Option:* Send notice of public hearing to recent Alcohol Catering Permit holders.

CHAPTER XX
MOBILE FOOD VENDORS

SECTION:

5-xx-1: Purpose

5-xx-2: Definitions

5-xx-3: License Required

5-xx-4: General Regulations

5-xx-5: Mobile Food Vending on Public Property

5-xx-6: License Issuance Process

5-xx-7: Investigation

5-xx-8: Reasons for Revocation of License

5-xx-9: Notice of Correction and Revocation Process

5-xx-10: Appeal Process

5-xx-1: PURPOSE:

The creation and intent of this chapter is to promote and ensure the public health, safety, and welfare of the residents and visitors of the City of Nampa. Specifically, this chapter provides proper regulations and best practices for operating and maintaining safe, clean, and appealing mobile food vendors within the City.

5-xx-2: DEFINITIONS:

The following words are defined as follows for this chapter only:

| | |
|---------------------|--|
| ADJOINING PROPERTY: | Any property immediately adjacent to the Vending Area, as measured from the right-of-way centerline towards shall be the dividing line in determining adjacency. |
| DISCHARGE LOCATION: | The location where graywater/wastewater from the vending cart/vehicle is taken to for discharge or treatment. |

| | |
|---|---|
| <p>FOOD AND BEVERAGE PREPARATION AREA:</p> | <p>Any area or location where food or beverage is prepared for human consumption.</p> |
| <p>FOOD TRUCK COURT</p> | <p>One or more lots or parcels of land, or a designated space in the right-of-way, where two or more Mobile Food Vending Vehicles are permitted by the city to locate in order to offer food or beverages for sale to the public as the principal/primary use of the land.</p> |
| <p>IMPROVED LOT WITH AN OCCUPIED BUILDING:</p> | <p>A land parcel that has met all site improvement standards (paving, parking, sidewalks, landscaping, etc. based on NCC Title 10 and Engineering Division policies), where at least one building on the property has a valid existing tenancy.</p> |
| <p>IMPROVED LOT WITH NO PRIMARY STRUCTURE:</p> | <p>A land parcel that has met all site improvement standards (paving, parking, sidewalks, landscaping, etc. based on NCC Title 10 and Engineering Division policies), where no building exists for a valid certificate occupancy to be issued.</p> |
| <p>IMPROVED LOT WITH AN UNOCCUPIED BUILDING:</p> | <p>A land parcel that has met all site improvement standards (paving, parking, sidewalks, landscaping, etc. based on NCC Title 10 and Engineering Division policies), where no tenants exist in any of the buildings on the parcel. Reference NCC 4-12, Vacant Building Registration and Maintenance.</p> |
| <p>MOBILE FOOD VENDING:</p> | <p>Peddling, vending, selling, displaying, preparing or offering a food or beverage(s) for sale for a limited duration</p> |
| <p>MOBILE FOOD VENDING CART:</p> | <p>A movable push-cart that is operated by a vendor on property or parcel for mobile food vending.</p> |
| <p>MOBILE FOOD VENDING VEHICLE:</p> | <p>A vehicle operated by a vendor on or within the frame of the vehicle for mobile food vending.</p> |
| <p>MOBILE FOOD VENDOR:</p> | <p>Any person traveling by foot, motor vehicle or any other type of conveyance from place to place or street to street, preparing or offering food or beverage items for sale.</p> |
| <p>MOBILE FOOD VENDING TRAILER</p> | <p>A mobile trailer that is operated by a vendor on or within the frame of the trailer for mobile food vending.</p> |
| <p>PRIVATE PROPERTY VENDING:</p> | <p>Mobile Food vending where all aspects of the activity take place on property that is not public property.</p> |
| <p>PUBLIC PROPERTY:</p> | <p>Parks, parking lots, rights of way, parcels, and sidewalks owned or maintained by the State of Idaho, the City of Nampa, or any political subdivision thereof.</p> |
| <p>SIDEWALK VENDING:</p> | <p>Mobile Food vending from a vending cart or vending area to persons on the public right-of-way, any sidewalk, or pedestrian access.</p> |

- STREET VENDING:** Mobile Food vending from a vending vehicle situated on the public right-of-way between the curb lines, or edges of pavement, to persons within the right-of-way or the public sidewalk.
- UNIMPROVED LOT:** A land parcel that typically does not have a building on the property and lacks any of the required site improvements (paving, parking, sidewalks, landscaping, etc. based on NCC Title 10 and Engineering Division policies).
- VENDING AREA:** Any area used or anticipated to be used for Mobile Food vending, including preparation, display, transactions, customer queuing, customer seating areas, and other associated activities.

5-xx-3: LICENSE REQUIRED:

It is unlawful for any Mobile Food vendor, or licensee, agent, or employee of that Vendor to do any of the following:

- A. operate in an unauthorized location,
- B. operate without a City license,
- C. operate without a valid health department permit or Fire department approval,
- D. operate in violation of City Code or any applicable health department regulations.

A violator of any section of this chapter is a misdemeanor (or infraction?) which may include revocation of the license, and/or denial of a future license for a period of up to three (3) years.

5-xx-4: GENERAL REGULATIONS:

The following are applicable to ALL mobile food vendors:

- A. **Exclusive Rights:** No Mobile Food vendor shall have exclusive right to any location on public property. Special event permits, or any other permit issued by the City, for the use of any public property will take precedence for the duration of the event, or time, associated with the use of public property.
- B. **Location And Site Restrictions:**
 - 1. Mobile Food Vending is prohibited within residential zones, unless otherwise permitted within this city code or authorized by written consent by the homeowners association and to be located within a common area.
 - 2. Mobile Food vending activities are prohibited in any congested area where their operations might impede or inconvenience the public flow of travel.

3. Mobile Food vending activities are allowed on public property by permit only.
4. Mobile Food vending activities shall not be located in the following areas:
 - a) Where clear pedestrian passage on the public sidewalk is five (5) feet wide or less;
 - b) Crosswalk areas;
 - c) Within the clear vision triangle area on corners of intersections, alleyways or driveways;
 - d) All vending vehicles, carts, trailers and areas shall maintain a 10' setback of from adjacent buildings and property lines.
 - e) In any area which obstructs the movement or visibility of vehicles or bicycles using the appropriate public right-of-way, access easement, or drive aisle.
 - f) Cannot impede utility boxes and/or vaults, handicap ramps and parking spaces, trash enclosures, or emergency call boxes
 - g) Cannot be within 20 feet of fire hydrants.
5. Unless otherwise provided in this chapter, or through a temporary concession permit or special event permit, vending areas shall be spaced a minimum of ten (10) feet apart.
6. Vendors shall not use or attach any items to public amenities (trees, streetlights, street furniture, railings, etc.) for any reason.
7. The area within twenty-five (25) feet of the vending area shall be kept free of discarded beverages, debris, food, and trash at all times.
8. All food vendors shall operate in such a manner that prevents the spilling or splattering of grease, water, food, or trash on any public property. The food vendor shall be responsible for the cleaning and/or repair of any public property which is soiled, stained, or damaged by the placement or operation of the Mobile Food vending business.

C. Operating Hours and Other Time Limitations:

1. No Mobile Food vending truck, trailer, cart or vending area shall be unattended for more than fifteen (15) consecutive minutes.
 - a) Mobile Food vendors associated with temporary concession permits or special event permits may request this requirement be waived.

D. General Operation Restrictions and Requirements:

1. Drive-thru operations shall not be permitted.

2. City water, sewer service and permanent electrical connections are not permitted.
3. Audio amplification of any kind is prohibited, unless otherwise permitted within this City Code.
4. Each vending cart/vehicle containing a food preparation area shall provide a discharge location approvable by the City Engineer. Permanent domestic water and sewer services are not allowed.
5. Mobile Food vendors shall display, in a readily visible location, the following items at all times when in operation:
 - a) City license (Mobile Food Vendor Permit)
 - b) Health permit
 - c) Fire District Approval
6. The dumping of any ice, trash, gray or wastewater, or any other items associated with Mobile Food vending, into public waste receptacles, private dumpsters, public planter boxes, gutters, or the street is prohibited.
7. Each Mobile Food vendor shall provide proof of liability insurance as specified in section 5-1-11 of this title and shall agree in writing to hold the City harmless from any injury or damage resulting from the operation of the Mobile Food vending operation. Additionally, each Mobile Food vendor shall carry workers' compensation insurance as required under Idaho law.
8. The use of any tent, structure, or building, whether permanent or temporary, is not permitted.
9. Vacant Lots:
 - a) Unimproved lots: Vending activities are not allowed.
 - b) Unoccupied building with an improved lot: Prior to beginning operation, applicant must provide to the City written permission from the property owner or authorized agent. Written permission must also be provided to the City, prior to the beginning of operation, from adjacent business(es) willing to allow restroom use in their facility for the applicant's patrons. The restrooms must be available during the applicant's hours of the operation at that location. Permitted restroom locations will be identified on the Mobile Food Vendor permit.
 - c) Improved lot with not primary structure: Prior to beginning operation, applicant must provide to the City written permission from the property owner or authorized agent. Written permission must also be provided to the City, prior to the beginning of operation, from adjacent business(es) willing to allow restroom use in their facility for the applicant's patrons. The restrooms must be available

during the applicant's hours of the operation at that location. Permitted restroom locations will be identified on the Mobile Food Vendor permit.

5-xx-5: MOBILE FOOD VENDING ON PUBLIC PROPERTY:

The following additional regulations apply to all Mobile Food vending operations which take place on public property.

- A. Each Mobile Food vendor operating on public property shall receive written permission from the appropriate governing authority. For public property owned by the City of Nampa, the City of Nampa designee shall make decisions on authorization.
- B. Each Mobile Food vendor operating on public property shall carry a Mobile Food general liability policy naming the City as an additional insured entity for any damage to public property. The policy shall be in the minimum amount as specified in section 5-1-11 of this title.
 1. If the damage exceeds this amount the City may use any and all means to collect the amount needed to clean, repair, or replace the damaged property.
- C. In addition to the general regulations set forth in NCC 5-xx-4, the following regulations shall also apply:
 1. Sidewalk and Street Vending:
 - a) Each Mobile Food vending operation shall obtain written consent of each adjoining property owner or agent of the owner (business manager, property manager) prior to operation.
 2. Street Vending:
 - a) Vending vehicles shall follow all traffic regulations, including but not limited to: speed limits, parking locations, parking time limits, obstructing traffic, and noise limitations.

5-xx-6: LICENSE ISSUANCE PROCESS:

- A. All licenses shall be issued on an annual basis. Application for such license shall be made upon a form supplied by the City Clerk and applicant shall pay a license fee as established by resolution of the city council. The license fee shall be paid to the city at the time of application.
- B. Licenses shall be issued or denied within ten (10) business days after receipt of a complete application.

- C. If a license, or renewal thereof, is denied, written notice of the reason(s) therefor shall be provided to the applicant or licensee. Denial of the license, or renewal thereof, shall become final within ten (10) days of service unless the applicant or licensee appeals the action to the City Council.
- D. Upon receipt of an application for any license under this chapter, the application shall be referred to the Nampa Police Department which shall conduct an investigation to determine the suitability of the applicant to be licensed.
 - 1. The investigation shall require an applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho state police and the federal bureau of investigation pursuant to Idaho Code section 67-3008 and congressional enactment public law 92544. The Nampa Police Department shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho state police bureau of criminal identification for a criminal records check of state and national databases.
 - 2. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The Nampa police department is authorized to receive criminal history information from the Idaho state police and from the federal bureau of investigation for the purpose of evaluating the fitness of an applicant for licensure. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited.
 - 3. The applicant shall pay, in advance, the fees required by the Idaho State Police Bureau of Criminal Identification for the criminal records check.
- D. The City Clerk shall deny an application for a mobile food vendor license where:
 - 1. The application is incomplete or required application materials or fees have not been submitted within thirty (30) days from receipt of a partial application; or
 - 2. Investigation of such application or application materials reveals that provided information is invalid, false, or incomplete; or
 - 3. Within the five (5) years preceding the date of submission of the application, the applicant has been convicted of, or has completed a sentence of incarceration for any of the following crimes, or any probation or parole violation related to such conviction:
 - a) A violation of any provision of this chapter.
 - b) Any misdemeanor charge involving theft or fraud, except that a conviction of, or completion of a sentence of incarceration for, petit theft shall not be grounds for denial.
 - c) Any misdemeanor charge of battery, assault, domestic battery or assault, telephone harassment, stalking, or violation of a protective order.

- d) Any misdemeanor charge involving, or related to, a child or children, elderly persons, and/or other vulnerable persons, except that a conviction of, or completion of a sentence of incarceration for, a first offense misdemeanor charge of injury to child shall not be grounds for denial.
 - e) Any crime involving, or related to, use of or possession of drugs or illicit substances.
4. Within the ten (10) years preceding the date of submission of the application, the applicant has pled guilty to, received a withheld judgment for, or been convicted of, or has completed a sentence of incarceration for, any of the following crimes, or any probation or parole violation related to such conviction:
- a) Any felony charge of theft or fraud.
 - b) Any felony charge of battery, assault, domestic battery or assault, telephone harassment, stalking, or violation of a protective order.
 - c) Any felony crime involving, or related to, a child or children, elderly persons, and/or other vulnerable persons, except that a conviction for a felony sex crime shall disqualify the applicant as set forth below.
 - d) At any time preceding the date of submission of the application, the applicant has been convicted of any of the following crimes:
 - 1) Any charge involving, or related to firearms or other weapons, except that a conviction related to carrying a concealed weapon shall not be grounds for denial.
 - 2) Any charge involving, or related to a crime against any person, whether minor or adult, involving, or related to, sexual abuse, sexual assault, prostitution, indecent exposure, obscene conduct, or any other sexual conduct or activity.
 - 3) Murder; manslaughter; rape; kidnapping; robbery; arson; fraud; or manufacturing, delivery, or trafficking drugs or illicit substance(s).
 - 4) Any crime resulting in the requirement by any law or legal order that the applicant register as a sex offender.

5-xx-7: REVOCATION OF LICENSE

The City Clerk may revoke a mobile food vendor license where the Vendor does any of the following:

- A. operate in an unauthorized location,
- B. operate without a City license,

- C. operate without a valid health department permit or Fire department approval,
- D. operate in violation of City Code or any applicable health department regulations.
- E. any acts that violate a term or condition of the license.
- F. In the course of operating or acting as a mobile food vendor, the licensee violates a provision of this section or of any other local, state, or federal law.
- G. It is found, after issuance of such license, that it was issued pursuant to falsified, inaccurate, or incomplete information on the application.
- H. The licensee pleads guilty to, is convicted of, or is granted a withheld judgment for:
 - 1. Reckless driving, eluding a police officer, racing, and/or driving under the influence of alcohol, except that such conviction shall not be grounds for revocation where the applicant is not approved to operate a motor vehicle while operating or acting as a mobile food vendor.
 - 2. Any charge involving theft or fraud.
 - 3. Battery, assault, domestic battery or assault, telephone harassment, stalking, or violation of a protective order.
 - 4. Any crime involving, or related to, firearms or other weapons.
 - 5. Any crime involving, or related to, a child or children, elderly persons, and/or other vulnerable persons.
 - 6. Any crime involving, or related to, prostitution, indecent exposure, obscene conduct, or other sexual conduct or activity.
 - 7. Any crime involving, or related to, drugs or illicit substances.
- I. The licensee is required by any law or legal order to register as a sex offender.

5-xx-8: NOTICE OF CORRECTION AND REVOCATION PROCESS:

Any public safety officer, City Official, or other city staff member authorized by the Mayor (herein the “enforcement designee”) is authorized to enforce this chapter.

- A. First Notice of Correction: The enforcement designee shall, upon receipt of credible information that a violation of this Chapter has occurred by a licensee, serve a written First Notice of Correction for any violations of this Code and shall be served on the applicant or licensee which describes the general nature of the prohibited act. Service of this Notice may be in person or by certified mail at the address on the license application. Should a city official determine that an emergency exists that constitutes an immediate danger to life or health, a license may be summarily revoked pending

the notice and public meeting herein provided. The licensee will have ten (10) days from the date of the Notice to correct the violation.

- B. **Second Notice of Correction:** The enforcement designee shall, upon determination that a violation of this Chapter has not been corrected, serve a written a Second Notice of Correction for any violations of this Code and shall be served on the applicant or licensee which describes the general nature of the prohibited act. Service of this Notice may be in person or by certified mail at the address on the license application. The licensee will have ten (10) days to correct the violation.
- C. **Notice of Revocation:** If the enforcement designee determines that a revocation is the appropriate remedy for the violation, a “Notice of Revocation” will be issued by the City Clerk stating the reason(s) for the revocation. This Notice shall be served on the licensee in person or by certified mail at the address on the license application. Revocation shall become final within ten (10) days from the date of delivery or service, unless the licensee appeals the action to the City Council.

5-xx-9: APPEAL PROCESS:

- A. The applicant or licensee shall make his/her appeal in writing to the City Council within ten (10) days of licensee’s receipt of the Notice of Revocation. The written appeal shall set forth the specific facts or circumstances (including any supporting documentation) which the licensee believes establishes that there is not credible evidence that a violation has occurred. During any pending appeal the license is considered suspended and the licensee may not operate its mobile food vendor services.
- B. Upon receipt of such written appeal, the City Clerk shall schedule a public hearing on the appeal at a City Council meeting within forty (40) days. The appellant shall be notified in writing (in person or by certified mail) by the City Clerk of the time and place of the public meeting where the appeal will be heard.
- C. Following a public hearing on the appeal, City Council shall either affirm or reverse the action and shall make written findings of fact and conclusions of law with 30 calendar days of the hearing. Such findings shall be based upon competent and substantial evidence contained in the hearing record as a whole. The City Council’s decision on such appeal shall be a final decision.
- D. A copy of the council decision, findings of fact, and conclusions of law shall be delivered by the City Clerk by certified mail. Any revocation/suspension imposed by said written finding of facts and conclusion of law shall be effective on the date set forth within the decision.

Mobile Food Vendors Review of Proposed Ordinance

City Council Workshop – March 16, 2023

Purpose of Today's Discussion

- Summarize Council direction received/taken
 - Ensure staff captured Council's intent
- Review Staff Recommendations on Focused Areas identified at last Council Workshop (January 19, 2023)
- Determine Next Steps

Summary of Direction Received / Action Taken

- Review of other municipalities' code on Food Trucks
- High-level review/discussion with City Council



Summary of Direction Received / Action Taken (continued)

- Prepared Draft document, that was focused on Council's previous comments, and was vetted by the following departments:

Legal

Planning & Zoning

Building

Engineering

Fire Protection District

Clerk's Office

Code Compliance

Economic Development

Mayor's Office

Parks & Recreation

Mini Sessions

1. Vacant Lots
2. Food Truck Courts
3. Site Improvements and Accessory Items
4. Duration, Grace Period, and Restricted Locations
5. Licensing Process and Enforcement

1. Vacant Lots – *Recommendations*

- Not allowed on Unimproved Lots (i.e., gravel lots)
 - Unfair advantage to brick-and-mortar businesses
 - Addresses Council’s concern with gravel vacant lots
- Unoccupied Building with Improved Lot or Improved Lot with No Primary Structure
 - Written permission from the property owner
 - Requiring identified adjacent business allowing restroom use (permitted restroom location will be on permit)

Mini Sessions:

1. **Vacant Lots**
2. Food Truck Courts
3. Site Improvements and Accessory Items
4. Duration, Grace Period, and Restricted Locations
5. Licensing Process and Enforcement

2. Food Truck Courts

- More of a Land Use instead of a Licensing Issue
- Special Events are handled differently
- Lloyd Square (Proposed Option)
 - Parks reservation needed
 - Limit on hours/days
 - Parking issues
- Possible Option: Railroad Museum Parking Spaces
 - Currently under-utilized
 - Possible attraction to museum and downtown area

Mini Sessions:

1. Vacant Lots
2. **Food Truck Courts**
3. Site Improvements and Accessory Items
4. Duration, Grace Period, and Restricted Locations
5. Licensing Process and Enforcement

3. Site Improvements and Accessory Items – *Recommendations*

- No picnic tables or awnings
 - Competitive advantage to brick-and-mortar businesses
- No utility connections
 - Significant safety issues related to electrical
 - City’s primary goal is to ensure safety of all residents
 - Decreases liability

Mini Sessions:

1. Vacant Lots
2. Food Truck Courts
3. **Site Improvements and Accessory Items**
4. Duration, Grace Period, and Restricted Locations
5. Licensing Process and Enforcement

4. Duration, Grace Period, and Restricted Locations - *Recommendations*

- Overall Recommendation: Mobile Only
 - Enforceable
 - Removes competitive advantage
- Duration: Must not be unattended for more than 15 consecutive minutes
 - Allows some existing operations to continue but must be completely mobile
 - Do we Grandfather businesses currently operating on unimproved vacant lots?

Mini Sessions:

1. Vacant Lots
2. Food Truck Courts
3. Site Improvements and Accessory Items
4. **Duration, Grace Period, and Restricted Locations**
5. Licensing Process and Enforcement

4. Duration, Grace Period, and Restricted Locations – *Recommendations* (continued)

- Grace Period: 90 days to obtain compliance
- Restricted Locations
 - Parks (currently requires Concessions Permit)
 - Lloyd Square (currently requires Special Event Permit)
 - City-owned Property (*option*: City Permission or require Special Event Permit)
 - Residential Zones, except with written consent by the homeowners association and is located in a common area

Mini Sessions:

1. Vacant Lots
2. Food Truck Courts
3. Site Improvements and Accessory Items
4. **Duration, Grace Period, and Restricted Locations**
5. Licensing Process and Enforcement

4. Duration, Grace Period, and Restricted Locations – *Recommendations* (continued)

- Restricted Locations (continued)
 - Remove current Downtown restriction listed in Title 5 - Business Licenses (conflicts with Land Use Code)
 - **OPTION:** Allow for X number of hours on 12th thru 14th St and Front Street
 - Exclude street in front of Lloyd Square
 - Right of Way (currently requires ROW permit)
 - **OPTION:** No ROW permit required for certain areas of downtown (incentive)

Mini Sessions:

1. Vacant Lots
2. Food Truck Courts
3. Site Improvements and Accessory Items
4. **Duration, Grace Period, and Restricted Locations**
5. Licensing Process and Enforcement

5. Licensing Process and Enforcement – Recommendations

- Notice of Correction Letters to be sent to both property owner and licensee
- Misdemeanor citations for food trucks to be given to both property owner and licensee
- Temporary Use Permits will no longer be needed with the creation of this new license

Mini Sessions:

1. Vacant Lots
2. Food Truck Courts
3. Site Improvements and Accessory Items
4. Duration, Grace Period, and Restricted Locations
5. **Licensing Process and Enforcement**

Summary

- Did we capture Council's intent for each of these areas?
- Key Concerns
 - Sanitation / Trash
 - Long-term impacts from improper disposal of grease and gray wastewater
 - Safety / Traffic
 - Significant site analysis/review required of Brick-and-mortar businesses
 - Need to ensure community standards are met
- Recommendations reflect existing Code and removes unfair advantage
 - Food Trucks are not required to improve lots or pay property taxes

Summary (continued)

- Allows some existing operations to continue with the requirement of being completely mobile
 - Possibly consider a Grandfather option
- Handouts could be provided at City Clerk's Office
 - List of locations/companies that provide services related to food trucks
 - Process to obtain permission to operate in City parks
- Community Survey?
 - Public's feedback on food trucks not being mobile

Next Steps

- Finalize draft version of proposed Code based on Council's direction received today
- Staff to coordinate on consolidating, cross-referencing, and removing code sections related to mobile food vendors (i.e., food trucks)
- Notice Public Hearings for Planning & Zoning Commission (removal of existing code sections) and City Council (new code section and removal of existing code sections)
 - Potential Council Public Hearing in April/May 2023



At the time of publication, this Item had no supporting documentation.



At the time of publication, this Item had no supporting documentation.