

Staff Report

## Proposed Vending Ordinance Revisions

December 9, 2014

### **BACKGROUND:**

After receiving several complaints regarding vending carts along Main Street and difficulty administering the current ordinance language on vending, City staff has completed its review and revisions to Chapter 22, Division III of the City Code that pertains to vending on public rights-of-way. Staff has worked with the Main Street Cultural District and the Campustown Action Association to obtain input from the districts as well as with vendors over the last year. Additionally, City staff from the City Clerk's Office, Fire Department-Inspections Division, Police Department, Planning and Housing as well as Public Works were requested to provide comprehensive input to ensure clear information is provided to those wanting to vend on public rights-of-way. The input from all parties was used to create the draft ordinance changes and draft application and administrative policies. Examples of these changes are attached.

As a final follow up prior to coming back to City Council on October 28, 2014, vending cart owners were invited to discuss the draft ordinance and administrative policies with staff on Thursday, September 18, 2014. Only two of the 14 vendors came to the meeting. The two in attendance were very satisfied with the revisions and appreciated that the application contained a copy of the administrative policies and pertinent ordinance language for them to refer to when necessary. They recommended staff consider adding a decibel limit to music being played by vending carts that would allow for conversations with patrons. Staff has addressed this concern and added a decibel limit for vending carts as part of the revisions to the code. The vendor recommendation on decibels also addresses a concern submitted to the City Council about noise emitted by vending carts where there are residents living in buildings above businesses.

Staff has rewritten the code and provided specific language and administrative policies for each of the six uses laid out in this section of the code: Vending Carts, Vendor Persons, Mobile Vending Vehicle (Ice Cream Trucks), Sidewalk Cafes, Newspaper Dispensers, and Sidewalk Sales. Staff feels that the current regulations in Chapter 22, Division III for these very different vending functions do not work well for either the City or the vendors. **The present code only provides definitions for Stand and Vendor.** The new code provides a comprehensive set of definitions and regulations to allow for equitable implementation of the code.

Proposed major changes to the ordinance that covers all types of vending:

- limits vending to Downtown Service Center, Campustown Service Center and Village Zoning Districts, except for mobile vending vehicles
- requires display of vending permit at all times
- requires background checks; ~~those with a felony in the last five years are not eligible for a permit~~ (SEE STAFF COMMENTS )
- provides the City Manager, Police, and Fire the ability to suspend a permit for public safety reasons
- revises insurance requirements per the recommendations of the City's Risk Manager
- allows the City Manager to change the location of a permit temporarily or to permanently suspend the permit to accommodate construction in public rights-of-way
- requires private waste disposal
- prohibits the sale, transfer, or assignment of the permit to another party
- provides specific appeals process
- requires specific information if the business is a partnership, LLC, or corporation be submitted, not just a contact name of an individual
- requires a four foot clearance for pedestrian flow

The following is a listing of changes to a particular type of vending:

#### **Vending Cart (formerly vending stand) requirements**

- a photo or picture of proposed cart
- allows for 24 hour a day operations, no restrictions
- cart site plan
- restricted to 100 square feet of space for operations
- noise making devices are prohibited, except music, which is limited based to reflect the residential noise control levels in Chapter 16 of the Ames Municipal Code
- non-task specific illumination is prohibited
- ~~signage is restricted to name of business and menu~~ Signage is restricted to the cart and should pertain to the business.
- permits are issued for a year on a first come first serve basis and allow for annual renewal

#### **Vendor Person**

- no noise making devices or illumination
- allows for 24 hour a day operations, no restrictions
- cannot stand in one location and never move
- must be able to carry all items at one time that are for sale or distribution
- permit issued for up to seven days at a time, unless for a special event as approved by City Council

#### **Mobile Vending Vehicle**

- only allows ice cream trucks to be a mobile vending vehicle
- operation restricted to daylight hours
- restricts where they can stop, prohibits stops on arterials and major collector streets

- cannot park in one spot and not move
- prohibits operating in parks, city parking lots, by CyRide bus stops and other areas that would endanger pedestrians
- annual permit

### **Sidewalk Sales**

- requires that sales do not impede pedestrian movement and allow for 4 foot of clearance for pedestrians
- only allowed during assigned hours, business hours, unless there is a special reason for exception
- no noise making devices or illumination
- seven day permit for individual business
- multiple options for business district permits

### **Blanket Vending**

- allows business districts to apply for a permit to cover special events that could include all other forms of vending.

### **STAFF COMMENTS:**

The changes that are detailed above comprehensively address in a balanced way the concerns that have been presented to staff by all stakeholders. They also provide much improved guidance to vendors for use of the City's right-of-way. **Based on direction received at the October 28, 2014 City Council meeting, staff has made the following changes:**

- set the appeal period for denial or revocation of the license at *20 days* in the draft ordinance.
- vending cart signage should be restricted to the name of the business, menu, and business-related information. New language in Administrative Policies will state:

*Signage can only be affixed to the vending cart stating the name of the business, menu options with pricing, and other business-related information. No other signage is allowed. It is mandatory to display of the City vending permit.*

**At this meeting, the City Council also requested that staff provide options for the Council to consider for the Revocation and Denial of a Permit pertaining to criminal convictions 22.20(1)(e).**

**Option 1** - Adopt the language provided below in the draft ordinance that was originally presented to the City Council on October 28, 2014.

#### **22.20. REVOCATION OR DENIAL OF A PERMIT**

- 1) *The City Manager or designee may revoke or deny a Vending Permit if:
 
  - a. *It is determined by the Chief of Police or Fire Chief and/or their designees that public safety requires such revocation or denial.*
  - b. *The application is incomplete;*
  - c. *The application is determined to be fraudulent, to include a misrepresentation, or to contain a false statement;**

*d. The applicant has had a permit revoked by the City for any reason within the preceding two (2) years;*

*e. The applicant or permittee has been convicted, under the laws of the State of Iowa or of any other jurisdiction, of a felony or of a crime involving dishonesty within the preceding five (5) years; or*

*f. The applicant or permittee has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or from any other jurisdiction.*

*g. The permittee is operating a vending operation in violation of the terms of the Permit.*

*h. The permittee's insurance has been canceled.*

*The permittee violates any Requirements or Operating Policies of the Vendor Permit*

**This language is consistent with the requirements of licensees under the Iowa Alcoholic Beverage control act.**

**Option 2** - Adopt the language below that only limits permittees, not employees, based on the sex offender registry:

*The applicant or permittee is a person who is required to register or is registered on the Sex Offender Registry. This subsection shall apply to the applicant, permittee, each of the officers, directors, and partners of the applicant or permittee.*

**This option does not address employees of the permittee and it only addresses sex offenders.**

**Option 3** - Adopt the language below to prohibit permittees from being granted a vending permit if they are listed as a registered sex offender. It would also prohibit the permittee from hiring employees if they are listed as a registered sex offender:

*The applicant or permittee is a person who is required to register or is registered on the Sex Offender Registry. This subsection shall apply to the applicant, permittee, each of the officers, directors, and partners of the applicant or permittee, and all persons who are employed by or who work in direct contact with the public at the vending cart.*

**This option addresses both the permittee and the employees and only addresses sex offenders.**

**Option 4** - Direct staff to prepare other options that address concerns pertaining to other types of felonies or crimes of dishonesty.

**Option 5** - Remove Section 22.20(1)(e) which will allow permittees and their employees convicted of a felony or of a crime of dishonesty to obtain a permit. Additionally, Council may direct staff to remove any language in the Administrative Policies that require a background check.

**Once Council determines which option to proceed with pertaining to 22.20(1)(e), then Council should direct the City Attorney to prepare the ordinance for consideration on first reading at an upcoming meeting.**