

AGENDA REQUEST


FOR: COUNCIL MEETING OF ^{July 15, 2014} ~~August 5, 2014~~

FROM:
CITY COUNCIL MEMBER Matthew Petty

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:


AN ORDINANCE TO REPEAL § 178.05 FOOD TRUCK LIMITED TIME PERMITS
AND ENACT A REPLACEMENT § 178.05 FOOD TRUCK AND FOOD TRAILER
LIMITED TIME PERMITS

APPROVED FOR AGENDA:



City Council Member Matthew Petty

7/1/2014
Date



Assistant City Attorney Blake Pennington
(as to form)

7/1/14
Date

Pennington, Blake

From: matt@matthewpetty.org on behalf of Matthew Petty - Fayetteville Ward 2
<citycouncil@matthewpetty.org>
Sent: Tuesday, July 01, 2014 3:14 PM
To: Pennington, Blake
Cc: Nierengarten, Peter
Subject: Re: Food trailer ordinance

This looks good. Thank you!

Would you please prepare it as an ordinance for me to send to the City Clerk?

On Tue, Jul 1, 2014 at 2:21 PM, Pennington, Blake <bpennington@fayetteville-ar.gov> wrote:

A little after lunch but here is a new draft. I have corrected Section C to be consistent and prohibit parking in marked parallel spaces. I also added the prohibition against parking in gated lots.

The language in the ordinance regarding the P&R Director's authority is broad enough that she could establish approved zones or, conversely, prohibited zones within park property, especially with respect to safety and traffic concerns. That language doesn't restrict any authority the P&R Director has with respect to the goings on in city parks. If we added more specific language, I'm afraid that would begin to restrict her authority.

--

Blake E. Pennington

Assistant City Attorney

Tele: [\(479\) 575-8313](tel:(479)575-8313)

bpennington@fayetteville-ar.gov

From: matt@matthewpetty.org [mailto:matt@matthewpetty.org] **On Behalf Of** Matthew Petty - Fayetteville Ward 2

Sent: Monday, June 30, 2014 11:48 AM
To: Pennington, Blake
Cc: Nierengarten, Peter
Subject: Re: Food trailer ordinance

Welcome home, Blake.

Your first draft looks great. Just two clarifications and a question:

- Section (C) is intended to allow trailers in non-marked parallel spaces. (C)(2)(g) prohibits all parallel spaces. Let's make it consistent.
- Add a prohibition against using gated public parking lots to (C).
- I want to make sure the Parks and Rec Director has broad authority for denying a permit to anyone if it would create a hazard or traffic issue. A concern has been raised about allowing trailers into the cul de sac's at Wilson Park. With the way (C) is drafted, would the Parks and Rec Director have the authority to deny the use of a cul de sac to a food trailer? Or do we need more specific language.?

I think that's it. Thanks for your help,

M

On Fri, Jun 27, 2014 at 10:16 AM, Matthew Petty - Fayetteville Ward 2 <citycouncil@matthewpetty.org> wrote:

Excellent. Thank you.

FYI, I'm going to go the other way on marked parallel spaces. I want food trailers to be able to use unmarked spaces on streets (assuming appropriate zoning, etc).

Re: cul de sacs in parks - this makes sense and should be handled through the "requires advance permission of the Parks and Rec director or designee" clause. I recommend parks staff develop a standard checklist for those phone calls which includes questions about where they plan to locate and truck/trailer status.

On Thu, Jun 26, 2014 at 5:20 PM, Nierengarten, Peter <pnierengarten@fayetteville-ar.gov> wrote:

Hi Matthew,

Thanks for the opportunity to provide comments! Parks indicated that they are generally ok with the proposed change. Their only concern is that food trailer not be allowed in the dead-end cul-de-sac streets at Wilson Park, since turning around would be a major issue for a trailer. That appears to be covered in Section C2g which states that they are prohibited from parking or vending in parallel or angled on-street parking spaces. I did propose a slight change in the description of Section C so that it is consistent with C2g by deleting the word "marked" with reference to parallel or angled parking spaces.

Also in Section C – Limited Time Permit on Public Property, this section appears to be worded to allow Food Trailers in Publicly Owned Parking Lots – I'm not sure if this was your intention or not. So I spoke with Sharon

Waters about whether or not trailer could practically fit in public parking lots with gates and she expressed some concern. She said that trailers going into the gated lots are not allowed because it messes up the loop detection on the gate equipment. Thus when a vehicle enters with a trailer attached, the gate closes down before the trailer passes through completely causing damage to the trailer as well as our gate equipment. So, based on Sharon's feedback we may need to talk about the logistics of allowing Food Trucks in gated parking lots.

regards

Peter Nierengarten

Sustainability & Resilience Department Director

City of Fayetteville, Arkansas

479.575.8272

From: matt@matthewpetty.org [mailto:matt@matthewpetty.org] **On Behalf Of** Matthew Petty - Fayetteville Ward 2

Sent: Tuesday, June 24, 2014 4:08 PM

To: Nierengarten, Peter

Cc: Garner, Andrew; Pate, Jeremy; Marr, Don; Edmonston, Connie; Jumper, Alison

Subject: Re: Conversation with food trailer owner

Hi Peter,

I already have a draft ready to go from Blake (attached). Also, based on this email from Jeremy on May 23 (pasted after my signoff), I am pretty much ready to go. I expect Alan to bring forward an amendment to allow trailers in marked parallel spaces when this is introduced (and I expect it to fail, but perhaps the vote will be close or I am just wrong).

At this stage I'm not going to make any material changes to the framework Blake has drafted, but I would appreciate your comments on this draft as they relate to process and form. I plan to submit this to the clerk next week, barring something unforeseen. I am framing this as an oversight correction.

Best,

M

----- Pasted message -----

From: **Pate, Jeremy** <jpate@fayetteville-ar.gov>

Date: Fri, May 23, 2014 at 1:20 PM

Subject: RE: FW: Food trucks vs Food trailers

To: Matthew Petty - Fayetteville Ward 2 <citycouncil@matthewpetty.org>, "Olson, Leif" <lolson@fayetteville-ar.gov>, "Garner, Andrew" <agarner@fayetteville-ar.gov>, "Pennington, Blake" <bpennington@fayetteville-ar.gov>, Alan Long <longward4@gmail.com>

I don't believe we have a concern with trailers on private property, whether they issued temporary, long-term or bumping permits. I think we would also be open to allowing trailers in public parks through the lottery process, if there is adequate space for them, subject to Parks approval like any other vendor that wins a lottery ticket.

-Jeremy

--- End pasted message ---

On Tue, Jun 24, 2014 at 3:51 PM, Nierengarten, Peter <pnierengarten@fayetteville-ar.gov> wrote:

Hi Matt,

Thanks for including us in this conversation! Could you let us know when you anticipate bringing forward the amendments you mentioned below?

Staff generally agrees with the safety concerns that you expressed related to trying to parallel park food trailers and therefore we do not support allowing them in on street parallel parking spaces. I think we'd be open to discussing allowing trailers on private property, but we would need to balance that with trying to keep the nuances of the ordinance from becoming too complicated to understand and explain.

Regarding trailers in Parks, I think we need to let Connie's team weigh in on that.

Peter Nierengarten

Sustainability & Resilience Department Director

City of Fayetteville, Arkansas

479.575.8272

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL § 178.05 FOOD TRUCK LIMITED TIME PERMITS AND ENACT A REPLACEMENT § 178.05 FOOD TRUCK AND FOOD TRAILER LIMITED TIME PERMITS

WHEREAS, the initial implementation of the Food Truck Limited Time Permit ordinance identified areas of concern that can be resolved by amending the ordinance; and

WHEREAS, creating a class of permits designed for both food trucks and food trailers will provide additional opportunities for mobile vendors in the City of Fayetteville.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas repeals § 178.05 **Food Truck Limited Time Permits** and enacts § 178.05 **Food Truck and Food Trailer Limited Time Permits** as shown on Exhibit "A" attached hereto.

PASSED and APPROVED this _____ day of _____, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT A

178.05 Food Truck and Food Trailer Limited Time Permits

- (A) *Purpose.* This section's purpose is to create a process that allows food trucks and food trailers to locate for a limited time on public and private property. Food trucks are defined as a motorized and operationally self-contained single vehicle equipped with facilities for cooking and selling food. Food trailers are defined as a mobile food unit designed to be towed on public roads and having an enclosed area for storage, handling or preparation of food.
- (B) *Limited Time Permit for Parallel Parking Spaces.* Food trucks may apply for a permit determined through a lottery drawing by the Planning Division to locate for a limited time in a marked or delineated parallel public parking space.
- (1) The Planning Division will conduct a lottery in November each year for a total of three (3) Limited Time Permits for locating in parallel parking spaces on public roads. If more than nine (9) lottery applications are made Planning Staff may increase the number of permits issued not to exceed one third (1/3) of the total number of applications. Instances in which 1/3 the total number of applications results in a fraction of 0.5 or higher, the number of permits available shall be rounded up to the next whole number. These permits shall be issued on January 1st and will extend until December 31st. Food trucks may apply and participate in this lottery every year.
 - (2) A Limited Time Permit for Parallel Parking Spaces may be approved administratively by the Planning Division after making the following determinations:
 - (a) The applicant has paid an annual \$100 permit fee. Food trucks shall pay the appropriate fee for the time they are located in public parking spaces. The food truck shall fit entirely within one marked parallel on-street parking space.
 - (b) The applicant has provided a valid copy of the County Health Department permit and proof of remittance of HMR tax to the City of Fayetteville.
 - (c) The applicant has the responsibility to dispose of all wastes in accordance with all applicable laws. Food trucks are not permitted to dispose of their trash in public trash receptacles.
- (d) The applicant agrees to move to a different location after a four (4) hour time period. This time period includes onsite set-up and break-down time. The applicant agrees to move at least 325 feet away or out of sight/view of their previous location once their initial 4 hour time period has expired.
- (e) The applicant agrees to not locate on the same side of the street directly in front of an existing restaurant.
- (f) The applicant agrees to only vend towards the sidewalk side of the street and to keep the sidewalk unobstructed to allow for free flow pedestrian movement along the street.
- (g) The applicant agrees to locate on public property such that they will not cause an unsafe traffic or pedestrian situation.
- (h) The applicant agrees not to set up in a parking space adjacent to a parking pay station kiosk.
- (i) Food trucks are prohibited from parking or vending from angled on-street parking spaces and from public parking lots in the Entertainment District or the Downtown Business District. Food trucks are prohibited from parking in marked parallel parking spaces that are posted reserved for residential use.
- (j) The City reserves the right to limit food trucks from utilizing public parking spaces during special events such as; parades, Bikes, Blues and BBQ, etc. Special event permits may be available to food trucks for certain events. Contact the City's Parking Division for special event permits.
- (C) *Limited Time Permit on Public Property.* Food trucks and food trailers may apply for a permit determined through a lottery drawing by the Planning Division to locate for a limited time on public property excluding on-street marked parallel or angled parking spaces. Food trucks and food trailers with this permit may also vend in City Parks with approval by the Parks and Recreation Director.

- (1) The Planning Division will conduct a lottery in November each year for a total of three (3) Limited Time Permits for locating on public property. If more than nine (9) lottery applications are made Planning Staff may increase the number of permits issued not to exceed one third (1/3) of the total number of applications. Instances in which 1/3 the total number of applications results in a fraction of 0.5 or higher, the number of permits available shall be rounded up to the next whole number. These permits shall be issued on January 1st and will extend until December 31st. Food trucks may apply and participate in this lottery every year.

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 - (2) A Limited Time Permit on Public Property may be approved administratively by the Planning Division after making the following determinations:
 - (a) The applicant has paid an annual \$100 permit fee. Food trucks and food trailers shall fit entirely within no more than two parking spaces on public property or in a City Park and shall pay the appropriate fee for the time they are located in public parking spaces.
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- (D) *Limited Time Permit on Private Property.* Food trucks and food trailers may be approved administratively by the Planning Division for a Limited Time Permit to locate on private property after meeting the following conditions:
- (1) The applicant has paid an annual \$100 permit fee, unless they are also the holder of a public property lottery permit and they have already paid a \$100 permit fee. Permits expire December 31st.
 - (2) The applicant has provided a valid copy of the County Health Department permit and proof of remittance of HMR tax to the City of Fayetteville.
 - (3) The applicant has the responsibility to dispose of all wastes in accordance with all applicable laws. Food trucks and food trailers are not permitted to dispose of their trash in public trash receptacles.
 - (4) The applicant has agreed to move to a different property after a four (4) hour time period. This time period includes any onsite set-up or break-down time.
 - (5) The property is zoned to allow for food and beverage uses and the location meets all applicable zoning requirements of the underlying zoning district. The property owner for each location must provide a written statement giving the food truck or food trailer operator permission to operate on the property. A site plan shall be provided by the applicant or property owner for each proposed site upon which the food truck or food trailer would like to temporarily locate. The vendor shall keep these records up to date with the Planning Division.

- (6) The applicant agrees to locate on private property such that they will not cause an unsafe traffic or pedestrian situation.

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