



CITY OF WASHINGTON, ILLINOIS

City Council Agenda Communication

Meeting Date: October 21, 2019

Prepared By: Ray Forsythe, City Administrator
Jon Oliphant, AICP, Planning & Development Director

Agenda Item: Ordinance – Authorizing Mobile Vendors on Public Property and Right-of-Way

Explanation: The City currently allows for mobile vendors to be located on private property with the consent of the property owner. Mobile vendors (MV) are not allowed on public property or right-of-way. The attached ordinance would allow for them to be located outside of private property. The primary changes following the September Committee of the Whole meeting are as follows:

- Any business wanting to operate a MV on public property or ROW would be required to obtain a MV license. There would be a \$25 application fee for those that operate on public property or ROW with an annual \$25 renewal fee (instead of the \$200 that was proposed at the COW meeting). This fee would be waived for those that only operate at up to three special events per year as well as those Washington non-home occupations businesses that would like to operate a MV.
 - Any MV operating on ROW within the Square must have written permission from any business that it will be parked in front of. The prior draft regulations required permission from all retailers and restaurants within one block, which likely would have made it extremely difficult for any MV's to operate on the Square.
 - No more than six of the available Square MV spaces could be occupied at any time. This would allow for a balance between MV's and ensuring that some on-street parking spaces continue to remain available. A map showing the possible locations of any Square MV spaces is attached.
- Additional documentation attached.**

Fiscal Impact: Increased Revenue: Application fees, renewal fees, and sales tax collection.

**Recommendation/
Committee Discussion Summary:**

Staff recommends approval. This was discussed at the June and September Committee of the Whole meetings. At the last meeting, staff was directed to tweak the draft regulations pertaining to the mobile vendor application renewal fee, how often vendors can operate on public properties, separating semi-regular vending business versus special event business, and reducing the required notification of brick-and-mortar businesses on behalf of the mobile vendors.

Action Requested: Approval of the ordinance. A first reading will be heard on October 21 with a second reading to be heard on November 4.

ORDINANCE NO. _____

(Synopsis: Adoption of this ordinance would allow for Mobile Vendors to operate in the Washington city limits on right-of-way or on public property.)

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF
THE CITY OF WASHINGTON, ILLINOIS BY AMENDING VARIOUS SECTIONS OF
CHAPTER 115 ENTITLED "HAWKERS, PEDDLERS, TRANSIENT MERCHANTS
AND ITINERANT VENDORS"**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
WASHINGTON, TAZEWELL COUNTY, ILLINOIS, as follows:**

Section 1. That §115.01 of the Washington Municipal Code of Ordinances titled "Definitions," is hereby amended by substituting the definition for "Hawker or Peddler" with the following definition and adding the following definition for "Mobile Vendor":

HAWKER OR PEDDLER. Every person, whether or not the person is an employee of another person, who shall sell or offer for sale, barter, or exchange, at retail, any goods, wares, or merchandise, except milk or cream, traveling from place to place, in, along, and upon the streets, avenues, alleys, or public places of the city, or who shall sell and deliver from any vehicle, going from place to place in the city, whether to regular customers or not, any goods, wares, or merchandise, except milk or cream. A Mobile Vendor operating with a valid City of Washington Mobile Vendor license in compliance with this Chapter is not a hawker or peddler.

MOBILE VENDOR. An individual, partnership, or corporation that engages in the business of selling retail goods, food and/or beverages from a vehicle.

PUBLIC PROPERTY. Real property owned, controlled, used, or occupied by any unit of government or any governmental organization.

Section 2. That § 115.30 of the Washington Municipal Code of Ordinances is hereby amended by inserting the following as § 115.30:

MOBILE VENDORS

§ 115.30 LICENSE AND FEE

- (A) Any Mobile Vendor (MV) who would like to operate a MV within the City of Washington on public right-of-way (ROW) or public property shall submit an application for a Mobile Vendor license.
- (B) A \$25.00 application fee is required to be submitted for any MV who operates within the City of Washington on public ROW or public property. Existing non-home occupation businesses in the City of Washington shall be exempt from paying this fee if a business desires to also operate a MV within the city limits. MV's that are operating either on

public ROW or public property during a special event shall be exempt from paying this fee subject to the conditions in § 115.37.

- (C) A \$25.00 annual fee per MV shall be paid to the City of Washington no later than January 30th each year or if a new license is being requested, the annual fee shall be paid at the time an application is requested. Existing non-home occupation businesses in the City of Washington shall be exempt from paying this fee if a business desires to also operate a MV within the city limits. The annual fee shall only be required for any MV who operates within the City of Washington on public ROW or public property. MV's that are operating either on public ROW or public property during a special event shall be exempt from paying this fee subject to the conditions in § 115.37.

Section 3. That § 115.31 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.31:

§ 115.31 VEHICLE REQUIREMENTS

- (A) A MV shall operate from a self-contained, vehicle that possesses proof of vehicle registration. The vehicle shall be kept in good mechanical and structural condition.
- (B) A MV's vehicle shall be enclosed on the top and all sides, with the business name legibly painted on both sides of the vehicle. The presence of a door for public access or a serving window shall not be a violation of this section.
- (C) A MV's vehicle is not a multi-use vehicle. It should not be used for any other purpose other than a MV.
- (D) If the MV wishes to draw from a public power source, it must obtain written consent from the City and pay an appropriate fee, which shall be set by the City in its sole discretion. The City shall designate particular locations where it is acceptable for MV's to draw from a public power source. A MV shall not draw electricity from non-approved public power sources, such as street lights. A MV may rely on self-contained electricity. If a MV wishes to draw from an external power source on private property, the MV must gain consent from the property owner.

Section 4. That § 115.32 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.32:

§ 115.32 PROXIMITY AND LOCATION ON PUBLIC RIGHT OF WAY OR PUBLIC PROPERTY

- (A) A MV operating on a public street must conduct all points of sale on the curb side of the street in City of Washington approved public right of way or public properties. The City shall make a list and map of approved public right of way and public properties available on the City's website and at City Hall.

- (B) A MV shall not obstruct access to any sidewalk, street, alley or parking lot. While operating in a location that affects sidewalk traffic, a MV must provide a minimum of five (5) feet of unobstructed sidewalk to allow for pedestrian traffic, including, but not limited to wheelchairs.
- (C) Any MV operating on public right of way within the downtown Square must have the written permission from any stationary business that it will be parked in front of. A MV is deemed operating in front of a business if any part of the vehicle or any attached power unit or accoutrement is within an area bounded by the prolongation of the sides of the building from which the business operates, at, or approximately at, right angles to the curb or roadway edge closest to the business and extending to the far side of the proximate roadway.
- (D) No more than six (6) of the available downtown Square on-street MV spaces can be occupied at any time as determined by the City Administrator or his/her designee.
- (E) A MV may operate and conduct business next to another MV, as long as these actions do not infringe on the MV that was in the area first.
- (F) When operating on public property, tables, tents and chairs designated for customer dining are prohibited, with the exception of tents and tables that are specifically designated for food storage and preservation. On private property, tables, tents and chairs designated for customer dining are permitted with consent of the property owner.
- (G) Free-standing signage, tables, tents and chairs of any kind are strictly prohibited, without any exceptions, if the MV is conducting sales from an on-street parking location.
- (H) All signage and aesthetics promoting the MV must be attached to the vehicle.
- (I) A MV may operate on private property only with written consent from the property owner.

Section 4. That § 115.33 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.33:

§ 115.33 NOISE AND BEHAVIOR CONSTRAINTS

- (A) The vendor shall not annoy, harass, or call out to patrons in any way that calls attention to the sale of any goods that are being sold from the MV.
- (B) Any form of intimidation or disorderly behavior towards patrons, residents, pedestrians, and/or other vendors is prohibited will not be tolerated and shall be cause for revocation of the MV license.
- (C) A MV shall not play any sort of music or make any announcements that are amplified.

Section 5. That § 115.34 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.34:

§ 115.34 FOOD INSPECTIONS AND LICENSING

- (A) MV's are strictly prohibited from selling, displaying for sale, gifting, transferring or delivering any type of alcoholic beverages unless in compliance with City of Washington and State of Illinois requirements for such action.
- (B) Beverages may not be served in any glass cup or container.
- (C) A MV shall comply with all health department regulations regarding food handling, food preparation, and food service.
- (D) Every MV that stores, prepares, packages, serves, or vends food directly to the consumer shall have a valid inspection certification from the Tazewell County Health Inspector.
- (E) Every MV that stores, prepares, packages, serves, or vends food directly to the consumer shall have a current food license from Tazewell County.

Section 6. That § 115.35 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.35:

§ 115.35 SANITATION AND DISPOSAL

- (A) A MV shall abide by all rules and regulations regarding food safety and disposal set forth by the Tazewell County Health Department.
- (B) A MV, at the end of each business day operation, shall remove all items, containers, and debris from the area of operation. The vendor shall collect all litter and garbage incidental to the operation of the vehicle.
- (C) Vendors shall not place said refuse in any public trash container or any drain along the streets or sidewalks.
- (D) A MV shall have a non-absorbent and washable receptacle for refuse that is adjacent to the MV.

Section 7. That § 115.36 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.36:

§ 115.36 SERVICE LIMITS AND HOURS OF OPERATION

- (A) A MV shall not operate between the hours of 12:00 a.m. and 7:00 a.m.

- (B) A MV shall not operate a generator in a residential area between the hours of 10:00 p.m. and 7:00 a.m.
- (C) A MV must operate in one (1) location for not less than thirty (30) minutes nor more than six (6) consecutive hours. Site-specific parking regulations shall be enforced.
- (D) A MV must wait two (2) hours before returning to the same location.
- (E) A MV shall not violate any parking regulations and limitations set forth by the City of Washington unless granted permission by the City of Washington.

Section 8. That § 115.37 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.37:

§ 115.37 SPECIAL EVENTS

- (A) A MV may operate at a special event upon obtaining a MV license. A MV may operate at up to three (3) events held within the downtown Square per year without needing to pay the MV license fee. A single special event shall be considered to be the duration of the time period the event is held and shall not be any longer than three (3) consecutive days.
- (B) Any MV operating on public right of way within the downtown Square must have the written permission from any business that it will be parked in front of. A MV is deemed operating in front of a business if any part of the vehicle or any attached power unit or accoutrement is within an area bounded by the prolongation of the sides of the building from which the business operates, at, or approximately at, right angles to the curb or roadway edge closest to the business and extending to the far side of the proximate roadway.

Section 9. That § 115.38 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.38:

§ 115.38 HOLD HARMLESS/INDEMNIFY AND INSURANCE ON PUBLIC RIGHT OF WAY OR PUBLIC PROPERTY

- (A) All MV's operating on public ROW or public property shall defend, indemnify and hold harmless the City from and against any all claims, demands, actions, or proceedings, all costs, including attorneys' fees, damages, expenses, or other liability of any nature whatsoever due to personal injury or property damage (including damage to the public property), any of which arises directly or indirectly from or in connection with, in whole or in part, the operations of the MV.
- (B) The MV shall, at the MV's expense, carry and keep in full force and effect an insurance policy with a carrier and in a form satisfactory to the City, which policy or policies shall:

(1) Have Commercial General Liability coverage with the following limits:

- (i) Each occurrence - \$1,000,000
- (ii) Damage to rented premises - \$100,000
- (iii) Medical Expenses (any one person) - \$5,000
- (iv) Personal & Advertising injury - \$1,000,000
- (v) General Aggregate - \$1,000,000
- (vi) Products – Comp-Op Aggregate - \$1,000,000

(2) Have Automobile Liability coverage with the following limits:

Combined Single Limit (each accident) - \$1,000,000

(3) State the following within: The City of Washington as an Additional Insured on the Commercial General Liability, Auto Liability and Excess Liability when required by written contract or agreement regarding activities by or on behalf of the Named Insured. This insurance is primary insurance and any other insurance maintained by the Additional Insured shall be excess only and non-contributing with this insurance. A waiver of subrogation applies to the Commercial General Liability, Auto Liability, Excess Liability and Workers' Compensation/ Employers Liability in favor of the Additional Insured. A copy of the thirty (30) days notification of cancellation endorsement needs to be included with the Certificate of Insurance naming the City of Washington.

Section 10. That § 115.39 of the Washington Municipal Code of Ordinances titled is hereby amended by inserting the following as § 115.39:

§ 115.39 APPLICABLE LAWS

(A) All MV's shall comply with all laws, rules and regulations, including, but not limited to, the ordinances of the City of Washington, Tazewell County and the laws and regulations of the State of Illinois.

Section 11. That this ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Section 12. That all ordinances or parts thereof in conflict herewith are hereby expressly repealed.

PASSED AND APPROVED this _____ day of _____, 2019.

AYES: _____

NAYS: _____

Mayor

ATTEST:

City Clerk

Mobile Vendors

Current Possible Configuration
(Expanded Area)

Mobile Vendor



N. Main St.

S. Main St.

Walnut St.

Peoria St.

Washington

0 25 50 100 Feet

