



MEMORANDUM

LEGISLATIVE REFERENCE BUREAU

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To: Shirley Krug, Department of Public Works Administrative Services Director
From: Amy E. Hefter – Legislative Fiscal Analyst-Lead, 286-2290
Date: December 6, 2012
Subject: Regulations on Food Trucks

This memo is response to your request for information relating to regulations for locations of operations for food trucks. This memo is divided into 3 sections: code provisions regulating food trucks, concerns with current code provisions regulating food trucks and proposed legislation regulating food trucks. I hope this information proves helpful; please contact me with any questions.

Code Provisions Regulating Food Trucks

Food trucks are identified in the code as motorized food peddler vehicles. Four sections of the code regulate food trucks, ss. 74-1, 105-56, 105-57 and 115-45. Sections 74-1-7-d and 115-45-2-a-2 regulate the location and duration of time a food peddler vehicle may be parked on a street. Sections 105-56 and 105-57 regulate sales on the public way near public premises and during special events.

In s. 74-1-7-d, food peddler vehicles are to be parked one hour less on blocks which contain only a nonresidential occupancy or use. Food peddler vehicles may be parked in excess of the one hour limit if:

- The street has been closed to traffic for a civic or special event.
- The vehicle is parked in compliance with all posted time limits on parking and in compliance with all other parking regulations on a nonresidential block.

In s. 115-45, selling articles from a vehicle, vehicles, including motorized food peddler vehicles, are prohibited from parking within 300 feet of an elementary or secondary school and may be parked adjacent to blocks containing residential premises for no more than 2 hours in any single block (s. 115-45-2-a and a-2). These vehicles may be parked in excess of the 2-hour limit if they are in compliance with posted time limits and stops are separated by a 6-hour time period (s. 115-45-2-a and a-2). A vehicle may also be parked in excess of the 2-hour limit at a specific location for a specific date and time period if special permission is granted by the Public Safety Committee. An operator must make the request in writing for a specific vehicle to be granted this special permission.

Concerns with Current Code Provisions Regulating Food Trucks

- There is a time limit conflict between s. 74-1-7-d and s. 115-45-2-a-2. In addition, motorized food peddler vehicles may be parked in excess of both time limits in areas of the city where parking time limits are not posted as long as food peddler vehicles are in compliance with parking regulations.

- Enforcement of s. 74-1-7, is under the jurisdiction of the Health Department, and enforcement of s. 115-45, is under the jurisdiction of the Department of Public Works. The Health Department does not have the staff to effectively enforce these provisions of the code.

- The use of the following terms are problematic:

“Nonresidential occupancy or use”.

“Nonresidential block”.

“Adjacent to blocks containing residential premises”.

These terms are zoning terms and are not defined in the building and zoning code. The building and zoning code is meant to regulate the use of private property. References to “nonresidential” or “residential” use, block, or premises, is an attempt to regulate use of the public way based on use of adjacent private property. This makes enforcement of both sections challenging in that it requires Health, Public Works or Police Departments’ personnel, not trained in classifying land use, to judge what zoning classification to assign adjacent private property when attempting to enforce these provisions of the code.

- There are no code provisions that address motorized food peddler vehicles parking at meter parking spaces.

Proposed Legislation Regulating Food Trucks

Common Council File Number 111679, titled “An ordinance relating to food peddler permitting and sales on the public way.” was introduced by title-only on April 11, 2012, and is assigned to the Public Safety Committee. This file has been drafted and is awaiting final approval. This file may be accessed online at the City of Milwaukee Legislative Research Center, at the following Web address: <http://milwaukee.legistar.com/Legislation.aspx> Please enter Common Council File Number 111679 into the search box to retrieve the text of the draft ordinance.

The proposed legislation attempts to address concerns raised in the previous section by:

- Amending parking time limits to a uniform duration of 2 hours or less. In the absence a posted parking time limit a motorized food peddler vehicle shall be required to park for a duration of 2 hours or less.
- Moving s. 74-1-7-d, parked one hour or less provision, to s. 115-45 to allow for parking enforcement by parking checkers.
- Removing problematic building and zoning code references to “residential” or “nonresidential” use, block, or premises to clarify enforcement.
- Adding clearance requirements for food peddlers. Food peddlers shall be prohibited from being within 10 feet of: an entrance to a business or residence, a pedestrian ramp, a fire hydrant, a crosswalk or a bus stop no parking zone.
- Adding a provision requiring compliance with the Police Department’s request to relocate for public health, safety and welfare reasons in s. 74-1-7.

- Establishing a permit that allows a motorized food peddler vehicle to be parked in excess of the maximum time limit designated for a particular parking meter space.

A motorized food peddler vehicle meter parking permit fee of \$125 is established. Additional fees shall be charged per instance that a motorized food peddler vehicle is parked in a meter parking space during the permit period: a fee of up to \$23 for each parking meter space to be occupied by a motorized food peddler vehicle and a fee of \$65 for temporary meter hooding and signage.

- Increasing forfeiture amounts and penalties in ss. 74-1, 105-56, 105-57, and 115-45. Currently penalties in these sections vary in range from \$5 to \$500. The following proposed penalty amounts will be uniform in all 4 sections, as well as in the newly established motorized food peddler vehicle meter parking section:

A forfeiture of not less than \$250 nor more than \$500 if a person has not committed a previous violation within 24 months of the violation.

A forfeiture of not less than \$501 nor more than \$750 if a person has committed one previous violation within 24 months of the violation.

A forfeiture of not less than \$750 nor more than \$1000 if a person has committed 2 or more previous violations within 24 months of the violation.

- Prohibiting operation locations of certain vehicles selling articles or food on streets and sidewalks determined by the Commissioner of Public Works in consultation with the Commissioner of Health, Chief of Police and the local council member.