

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2013-3: MOBILE FOOD UNIT VENDORS AS ACCESSORY USES IN THE
WHOLESALE & WAREHOUSE BUSINESS, INDUSTRIAL, AND ECONOMIC DEVELOPMENT ZONES**

INITIATED BY: Urban County Council

PROPOSED TEXT: Underlined text indicates an addition to the current Zoning Ordinance.

ARTICLE 8: SCHEDULE OF ZONES

8-21 WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE

8-21 (c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

9. Facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building. Mobile food unit vendors may also serve this purpose, and be parked outside of a building to serve employees and visitors, provided that the requirements of Ordinance #17-2013 are met.

8-22 LIGHT INDUSTRIAL (I-1) ZONE

8-22 (c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

4. Facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building. Mobile food unit vendors may also serve this purpose, and be parked outside of a building to serve employees and visitors, provided that the requirements of Ordinance #17-2013 are met.

Note: This change would automatically carry over to the Heavy Industrial (I-2) zone and the Office, Industry and Research Park (P-2) zone.

ARTICLE 23A: EXPANSION AREA ZONING CATEGORIES AND RESTRICTIONS

23A-10 ECONOMIC DEVELOPMENT (ED) ZONE

23A-10(c) ACCESSORY USES

13. For premises not permitted under 23A(1)(c)(12) above, facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building. Mobile food unit vendors may also serve this purpose, and be parked outside of a building to serve employees and visitors, provided that the requirements of Ordinance #17-2013 are met.

Re-number remaining sections as necessary

STAFF REVIEW:

The Urban County Council recently initiated a text amendment to modify sections of Articles 8 and 23A of the Zoning Ordinance in order to permit mobile food unit vendors (also referred to as “food trucks”) as accessory uses (incidental and subordinate to an otherwise permitted use) in the Wholesale and Warehouse Business (B-4), Light Industrial (I-1), Heavy Industrial (I-2), Office, Industry and Research Park (P-2), and Economic Development (ED) zones.

Mobile food unit vendors fall within the overall category of “itinerant merchants” as regulated by the Code of Ordinances, Chapter 15 “Solicitors and Peddlers”. The Council established an Itinerant Merchant Task Force in 2010, the purpose of which was to more comprehensively regulate such merchants within the community. Work on

general regulations for itinerant merchants is still on-going; however, regulation of mobile food unit vendors has received more immediate attention. The Council adopted an amendment to Chapter 15 of the Code of Ordinances in February of this year that created Sections 15-11.1 through 15-11.4, which specifically define “mobile food unit vendor” and identify requirements for licensing and zoning compliance permits. These regulations, along with the Zoning Ordinance, form the basis for how and where mobile food unit vendors are permitted within Lexington-Fayette County.

Currently, a mobile food unit vendor is permitted and issued a zoning compliance permit within any zone in which a restaurant is a principal permitted use, such as the Downtown Business zones or the Neighborhood Business zone. Additionally, mobile food unit vendors have been permitted in other non-business zones either on a temporary basis (i.e., for a special event) or as an accessory use to an approved conditional use (e.g., private clubs). To date, mobile food unit vendors have not been able to locate on private property within industrial zones or the B-4 zone because these zones do not permit restaurants, unless an Adaptive Reuse Project has been approved by the Planning Commission.

Within the Light Industrial zone, the serving of food to employees or visitors has long been an accessory use, provided it has been within the building and not accessible to the general public. At least one zoning compliance permit for a food truck to be located within an industrial building for a brewery was approved under this accessory use. However, it was not able to be utilized by that applicant due to building code and fire safety concerns. This led to the proposed text amendment, which will permit mobile food unit vendors when accessory to a principal permitted use, and when utilized to serve only employees and visitors to the site in the B-4, I-1, I-2, P-2 and ED zones. These are many of our employment-generating zones, and the amendment will allow food service where otherwise not available either inside a structure or by a food truck.

A few areas within Lexington-Fayette County are primarily warehouse business or industrial, and proximity to meals during working hours is limited. Nandino Boulevard, Fortune Drive and Palumbo Drive are prime examples. This text amendment will permit additional options for businesses and employees in such areas with minimal impact, avoiding incompatible land use decisions that have been suggested for these areas of the community in the past.

Upon reviewing the specific language initiated by the Urban County Council, the staff would suggest changing the reference to a specific ordinance passed earlier this year, to instead reference the appropriate section of Chapter 15 of the Code of Ordinances. This would negate the need for a Zoning Ordinance text amendment should Ordinance 17-2013 be significantly amended or replaced in the future.

Alternative Text: Underlined text indicates an addition to the current Zoning Ordinance.

ARTICLE 8: SCHEDULE OF ZONES

8-21 WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE

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8-22 LIGHT INDUSTRIAL (I-1) ZONE

8-22 (c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

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Re-number remaining sections as necessary

The Staff Recommends: **Approval**, for the following reason:

1. The text amendment to Articles 8 and 23A will permit food service as an accessory use either within a structure or by a mobile food unit vendor in the Wholesale and Warehouse Business (B-4); Light Industrial (I-1); Heavy Industrial (I-2); Office, Industry and Research Park (P-2); and Economic Development (ED) zones, which are many of the community's employment-generating zones.
2. The amendment will permit additional options for businesses and employees within warehouse/wholesale and industrial business areas with minimal impact and will avoid incompatible land use decisions that have been suggested for these areas of the community in the past.

TLW/BJR/WLS

6/4/13

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